



**US Army Corps  
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Waterways Experiment  
Station

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Contract Report EL-93-4  
September 1993

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*Legacy Resource Management Program*

## **American Indian Access to Department of Defense Facilities: Source Documents and Bibliography**

by *Richard W. Stoffle, Diane Austin,  
Brian Fulfrost  
University of Arizona*

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by **Richard W. Stoffle, Diane Austin,  
Brian Fulfro**

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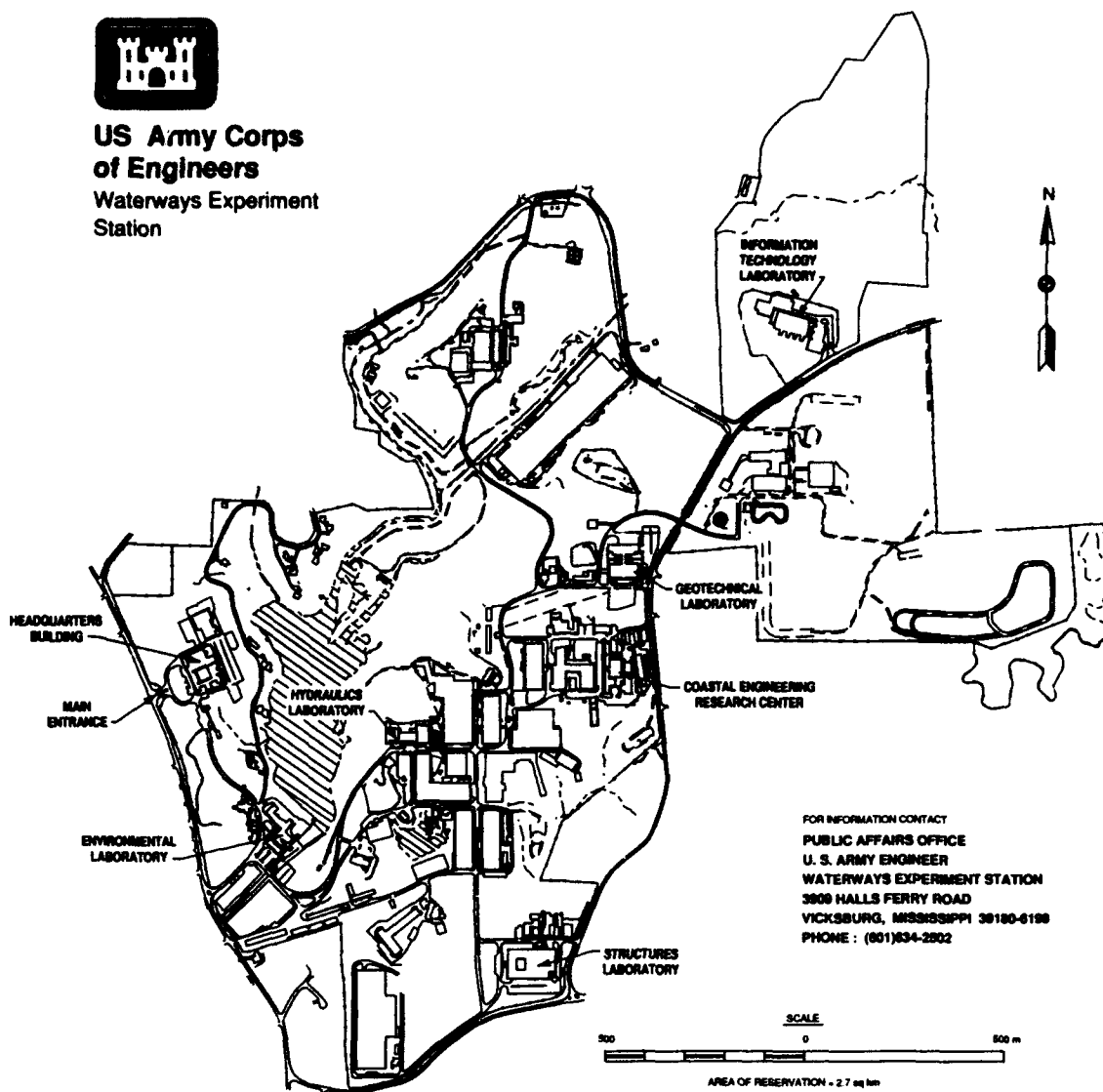
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## PREFACE

The report herein was prepared as part of the Education, Public Awareness, and Outdoor Recreation Task Area of the Department of Defense Legacy Resource Management Program. The overall program is managed by the Office of the Deputy Assistant Secretary of Defense for the Environment, with administration by the U.S. Army Engineering and Housing Support Center Natural and Cultural Resources Division. The Education, Public Awareness, and Outdoor Recreation Task Area is managed at the U.S. Army Engineer Waterways Experiment Station (WES). Mr. Michael R. Waring, Stewardship Branch (SB), Natural Resources Division (NRD), Environmental Laboratory (EL), WES, is the Task Area Manager.

Dr. Richard W. Stoffle, Ms. Diane Austin, and Mr. Brian Fulfrost, Bureau of Applied Research in Anthropology, University of Arizona, prepared this report. Technical review was provided by Dr. Paul R. Nickens and Mr. Christopher M. White, Resource Analysis Branch (RAB), NRD. General supervision was provided by Mr. Roger Hamilton, Chief, RAB; Mr. J. L. Decell, Acting Chief, NRD; and Dr. John Harrison, Director, EL.

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## **INTRODUCTION**

The Legacy Resource Management Program, as legislated by Congress in 1990, is an attempt to provide the Department of Defense (DOD) with a pro-active program for identifying, protecting and maintaining natural and cultural resources on all lands under DOD jurisdiction or influence. Congress set aside funds to be used to establish and support the program in fiscal year 1991 and the Legacy program was included in DOD's FY92 and FY93 budget proposals. In addition to these efforts, the Legacy program places special emphasis on resources associated with Native Americans and on public access issues.

The DOD is aware that many Native Americans, Native Hawaiians, and Native Alaskans have ancestral and historical relations to lands under its jurisdiction. For the purposes of this report, the term "Native American" will be used to include individuals from both Federally-recognized Indian Tribes and Alaska Native villages, as well as Native Hawaiian individuals and organizations. Within the lands under DOD jurisdiction are sites of archaeological, historical, botanical, and spiritual importance to native groups. Some of these sites contain cultural resources that have profound cultural or religious significance for native peoples. DOD installations have and must continue to enter into consultation relationships with native peoples in order to take into consideration sites of cultural significance. Legacy programs are designed to establish strategies, plans, and programs to protect, inventory and conserve these cultural resources. The development of educational, public access and recreational programs are in turn designed to increase public appreciation, awareness and support for Legacy's natural and cultural resources.

The Legacy program is expected to lead to policies and procedures for all DOD facilities that would allow individual facilities to fulfill their legal obligations under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act (AIRFA), and Native American Graves Protection and Repatriation Act (NAGPRA). Within the context of these laws, Native American access to any culturally significant sites on DOD installations has been an issue of special concern. In addition, access to archaeological or certain cultural materials, to the information regarding these materials, and to the consultation process governing the treatment of these materials is discussed. This report is an assessment of current policies and procedures concerning Native American access to and consultation with DOD installations.

The primary function of this report is to develop a bibliography of published material relating to Native American access issues on DOD facilities. This brief bibliography immediately follows the main text of this report. The methodology pursued to acquire this bibliography is described in Appendix One. Because there were few published materials on this issue, we personally contacted command centers and individual facilities in order to obtain information

about existing issues and agreements. The process involved in acquiring these contacts as well as a list of the facilities that were contacted are included in Appendix Two. Some general issues and issues particular to facilities with different levels of interaction with native peoples are discussed in the introductory text. A copy of the survey questionnaire that we used to gather information can be found in Appendix Three. Examples of formal agreements with specific native groups concerning access are found in Appendix Four. Formal agreements with specific native groups not specific to native access issues are included in Appendix Five. Agreements or policies that are not specific to native access issues are included in Appendix Six. Other relevant materials concerning native access issues are also included in the Appendices. Appendix Seven contains a copy of the 1993 policy statement of the Advisory Council on Historic Preservation, "Consultation with Native Americans Concerning Properties of Traditional Religious and Cultural Importance." Appendix Eight includes documents from a comprehensive program developed by Vandenberg Air Force to incorporate Native Americans. Documentation of the China Lake NAGPRA Meetings is found in Appendix Nine. Finally, the National Congress of American Indians Resolution on aircraft fly-overs is included in Appendix Ten.

As NHPA, AIRFA and NAGPRA begin to play a more prominent role in policy issues, DOD facilities must develop formal consultation relationships with Native Americans. Because DOD facilities contain many culturally significant sites to native peoples, they must also develop policies and procedures regarding native access to these sites. This report provides an overview of current policies and procedures regarding native access and consultation.

## **COLLECTION AND SUMMARY OF ON-SITE DOCUMENTS**

A majority of the written documents addressing issues of Native American interactions with United States military installations exist as special reports, historic preservation plans, or memoranda of understanding or agreement that are not accessible through a general documents search. These manuscripts were located through personal contacts with individuals working at the facilities from which they originated and where they are kept on file. Therefore, information for this report was gathered from military personnel. It should be recognized that the data provided here represent the perspectives of those individuals and not those of Native American representatives. Limitations of time and the orientation toward locating written documents generally precluded native contacts in this project. The method of contact and the facilities that were included in the research for this report are given in Appendix Two. A summary of the number of bases contacted and of bases where contacts at those bases reported the presence of sites of concern to Native Americans is provided in Table 1.

Particular attention was paid to facilities with sites of known or probable interest to Native American groups. Several categories of sites were described by contacts at these facilities. The types of sites identified and their prevalence at the military facilities contacted are given in Table 2.

**TABLE ONE: NUMBER OF BASES CONTACTED BY BASES WITH KNOWN SITES  
OR NO KNOWN SITES AND DEPARTMENT**

Bases Contacted	Department				Total
	Army	Navy	Air Force	Marine Corps	
Bases With Known Sites	23	8	14	3	48 (62%)
Bases With No Known Sites	2	3	23	2	30 (38%)
Total Bases Contacted	25 (32%)	11 (14%)	37 (48%)	5 (6%)	78 (100%)

**TABLE TWO: NUMBER OF MILITARY FACILITIES  
BY DEPARTMENT AND TYPE OF SITE\***

Department with Jurisdiction Over Site	Type of Site				
	Historical/ Archaeological	Burial	Botanical	Hunting	Sacred
Army (n=23)	15	8	5	2	7
Navy (n=8)	3	5	0	0	2
Air Force (n=14)	11	7	1	0	3
Marine Corps (n=3)	0	3	0	0	0
Total (n=48)	29	23	6	2	12

\* Some facilities have more than one type of site.

The presence of sites of potential or actual interest to native groups has generated activity at most of the affected facilities. In addition, contacts indicated that they anticipated these sites would require greater attention in the future as the military organizations work to meet the requirements of federal legislation. Nevertheless, at the present time few written agreements exist between native groups and military installations; the policies and procedures regarding native consultation and access at most facilities are informal.

Through the process of collecting information, a number of issues emerged that were significant to military personnel regarding interactions with native groups. These issues include those of general concern to all military facilities and those related to the level of interaction with tribes occurring at a particular location. In addition, a few special topics that are of concern at only certain military installations were uncovered. These issues are discussed in the following three sections.

## **General Issues**

Several general concerns have been raised regarding the interaction of DOD facilities and Native American groups. These include (1) awareness, (2) priorities, and (3) access to facilities, and are summarized below.

### *Awareness*

At many facilities, the subject of Native American, Native Hawaiian, or Native Alaskan interaction was unfamiliar to most people other than the archaeologist or cultural resource officer. Telephone operators, public affairs officers, and persons in environmental management were frequently unable to identify the persons at their facility who would have responsibility for this information. Several persons who believed they were the ones responsible for handling the dissemination of information or requests for access to the facility nevertheless expressed uncertainty about how to respond to the questions they were asked. (See Appendix Three for the telephone survey.) Also, although several public affairs officers stated that their office would be a point of contact to the facility for tribal members, there is no central or uniform point of contact from one facility to another through which information about native access can be gathered. Several respondents remarked that they had never before had requests for this type of information. In addition, at several bases the individuals were unaware of their department's policy regarding native groups or of a larger structure of which they were a part and to which they could turn for more information on this particular subject. Other than archaeologists or designated cultural resource managers, only two Air Force contacts mentioned any knowledge of recent communication from Air Force Commands regarding AIRFA or NAGPRA.

Though a lack of awareness was common at bases without relationships with tribes, this also proved to be a problem at some bases with existing agreements or documents that specifically addressed native interactions. Unless or until a named cultural resource manager could be located, the caller was often shuffled from office to office. This uncertainty among base



personnel creates a potentially significant problem for tribal members who would contact a facility seeking information or access.

Reasons identified for the lack of awareness include the high turnover rates and short time that many individuals had been in their positions. New employees generally knew nothing about the interactions occurring on their bases. A standardized system for handling these issues within the military departments would facilitate information transfer.

### *Priorities*

Native American issues have not received much attention at many of the bases contacted. Native concerns have not been given priority among the competing demands facilities face. Several contacts remarked that their bases had been dealing extensively with hazardous wastes and related issues they have received pressure to address. They reported that under the existing circumstances little attention had been given to interactions with native groups because of the absence of pressure in that direction. Some contacts indicated they believe that military installations have tried to ignore the native issues as much as possible. They acknowledged past failures to take these issues into account or to contact tribes when it would have been appropriate. One individual commented that native groups should be involved early in consultation activities, preferably before a proposed action when people are already upset. Several observed that military installations need to incorporate individuals sensitive to native concerns and familiar with the involved tribes who have prior experience working with native people rather than relying on personnel who may not have any experience in this area. These observations are in line with the Advisory Council on Historic Preservation's June 1993 policy statement that includes specifically that "communication with Native Americans should be initiated at the earliest stages of the Section 106 process" (ACHP 1993: 2) and that Native Americans must be approached in "culturally informed ways" (ACHP 1993: 3). A copy of that policy statement is provided in Appendix Seven.

A few facilities have had extensive involvement with native groups. Much of that has grown out of a trial and error approach to issues that have been raised by tribal members. Even where there is attention to native issues, though, most has been focused on archaeological sites and artifacts with little attention to consultation with tribes over other cultural resources. The few exceptions will be discussed in greater detail in the next section.

### *Access to Facilities*

Native Americans seek access to military facilities for a number of reasons. Two of the most commonly stated purposes are visits to sacred sites in order to conduct ceremonies and visits to harvest plant or animal resources.

Policies and procedures regarding Native American access to DOD facilities are not uniform. Access has generally only been incorporated into formal agreements and policy statements where these issues have been a problem. Two army bases, one naval station and one

air force installation have particular agreements or policies to facilitate access by native people. For example, a Memorandum of Agreement (MOA) between the Commander Naval Weapons Center and the Coso Ad Hoc Committee of the Owens Valley Paiute-Shoshone Band of Indians reserves eight weekends per year exclusively for visits by members of the Owens Valley Paiute-Shoshone Band of Indians and/or the Kern Valley Indian Community to Coso Hot Springs, located within the Naval Weapons Center, China Lake, California. Examples of these agreements are provided in Appendix Four.

Generally, contacts stated that Native American access issues that might arise would be handled through the facility's general access policies applicable to all persons, or dealt with informally. Native requests for access are handled through normal public relations procedures or in some cases through the museum director's office. For example, an area of sand dunes that is considered sacred by some Native Hawaiian people is located within naval property on Kauai. No formal agreements provide for visitation by Native Hawaiian people, but the base has a fairly open access policy requiring only that visitors sign in at the gate. At Fort Wainwright in Alaska, where access to game harvests has been an issue, procedures concerning access to hunting grounds are the same for any citizen, regardless of whether the citizen is a native with traditional subsistence ties to land on the facility.

Some policies have become institutionalized but nevertheless remain informal. For example, Fort Huachuca allows Apache people to harvest nuts at the fort in what was described as a "traditional" agreement between the tribe and the base. Lack of formal procedures governing access appears to be typical for facilities where access to botanical, sacred, or other cultural sites have been issues. Also, access has been granted at many installations as a result of informal agreements associated with construction projects like the Army's Facilities Construction Program of 1941 and 1942 during which many installations were built over burial sites.

Some contacts reported that they had never received any specific requests for access even when there were culturally significant sites at their facility. There are several cases where native tribes have come on to the installations to investigate discovered archaeological or cultural sites but have not specifically requested access to the sites. At some locations, there appears to be greater interest among anthropologists than native groups regarding culturally significant sites. For example, Lone Rock at the Navy's Bravo 20 Target Range in Nevada has been identified by anthropologists as a feature in Paiute mythology, but native groups have not contacted the naval offices with concerns. Formal contacts with the tribes in the region regarding their interest in the site are now beginning as part of an environmental assessment of the range.

### **Issues Particular to the Level of Interaction with Tribes**

Access to military facilities is a particular area of concern for Native Americans. However, interaction with DOD departments also involves access to information about artifacts and archaeological resources discovered on military properties and consultation regarding those and other cultural resources. Most military facilities with sites of archeological or cultural

significance to native peoples have no formal agreements or policies that specifically address either Native American access or consultation. Interactions with Native Americans at these facilities are usually dealt with through normal public relations procedures or through informal, that is non-binding, agreements with native groups. For example, Fort Sam Houston will enter into consultation with any "interested parties" in order to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA) but Native American groups receive the same treatment as other public groups with whom base personnel interact. Where consultation relationships exist, these are often included within procedures or policies related to environmental assessments, environmental impact statements, natural or cultural resource management plans, historic preservation plans, or programmatic agreements generated through the Section 106 process. For example, Redstone Arsenal in Alabama has a memorandum of agreement (MOA) with SHPO regarding the protection and management of historic properties on the facility that indicates a need to consult with "interested parties" including Native American groups. This MOA was written in order to fulfill the facility's requirements under Section 106 (see Appendix Six).

Though memoranda of agreement regarding archaeological and historical sites exist at several facilities, they do not always require consultation nor are they agreements with the affected native groups. Many of these agreements incorporate native groups as "interested parties." Other facilities, without MOAs or Memorandum of Understanding (MOU), send informal letters of consultation to native groups regarding proposed projects or excavations. For example, White Sands Missile Range sent a letter of consultation to the Mescalero Apache Tribe as part of an Environmental Impact Statement (EIS) for its Aerial Cable Test Capability Project. This letter and other examples of these documents can be found in the second section of Appendix Six. These formal agreements or informal letters of consultation are usually completed in order to fulfill the requirements of NHPA, AIRFA, NAGPRA, and other relevant laws. Such policies are not native-specific and do not recognize the particular interest of identified Native American groups to specific sacred sites. Therefore, for the purposes of this report they are treated separately from the agreements and policies that are specific to particular Native American groups.

Where Native American sacred sites are present at DOD facilities, there are also differences in the degree of interaction that personnel there have with native groups. The issues that were raised by contacts at each facility were often related to the level of interaction that the facility had with native groups. The extent of interaction has been divided into four levels, as shown in Table 3. Facilities at Level One have had no interaction with Native American groups. Facilities have been included at Level Two if their interactions with native groups have been limited to informal meetings or minimal contact with native groups regarding cultural resources. Facilities have been included at Level Three if they have had sustained interactions with Native American groups, but they do not have formal policies or agreements specifically with or naming those groups. Finally, facilities with formal agreements and policies that govern interactions with Native American groups and are specific to those groups have been included at Level Four.

**TABLE THREE: NUMBER OF MILITARY FACILITIES CONTACTED WITH  
KNOWN SACRED SITES BY LEVEL OF INTERACTION WITH NATIVE GROUPS  
AND DEPARTMENT**

Level of Interaction	Department				
	Army	Navy	Air Force	Marine Corps	Total
LEVEL ONE	6	2	2	1	11 (23%)
LEVEL TWO	5	4	7	0	16 (33%)
LEVEL THREE	7	0	3	1	11 (23%)
LEVEL FOUR	5	2	2	1	10 (21%)
TOTAL	22 (48%)	8 (17%)	14 (29%)	3 (6%)	48(100%)

Level One: Facilities with no interactions with Native American groups.

Level Two: Facilities with limited interactions with Native American groups; such interactions are not governed by native-specific policies, if any policies exist at all.

Level Three: Facilities with sustained interactions with Native American groups, but no agreements or policies specifically with or naming those groups.

Level Four: Facilities with formal agreements and policies that are specific to particular Native American groups.

Issue 1:        *Facilities With Known Sites but No Interactions With Native American Groups*

Twenty-three percent of the facilities with known sites that were contacted have no interaction with Native American groups. Several of these have no mechanism for contacting tribes. Some of these contact archaeologists or State Historic Preservation Offices (SHPOs) directly if they discover artifacts or sites. Contacts reported that they have curated artifacts not presently receiving attention or Indian mounds that they have agreed to leave undisturbed. At most facilities, there appears to have been little archaeological research done. These facilities generally have not completed the surveys of the land under their jurisdiction. It is anticipated that further research in this area will result in increased concern for consultation and access issues. In some cases, contacts reported that they had policies that would lead them to treat Native Americans as "interested parties" in consultation, but they had never contacted native groups under those policies. The Historic Preservation Plan (HPP) for Redstone Arsenal in Alabama includes a requirement to consult with Native Americans when burials are discovered; however, they have not reached this consultation stage.

Individuals at several facilities reported that they recognized the deficiencies in their existing programs but did not have the resources to devote to improving the situation. Several are waiting for a response to monetary requests they submitted as part of their proposed Legacy projects that would specifically address the archaeological or cultural resource issues at their facilities. One such proposal is the request for resources for the completion of surveys of the test and training ranges at Hill Air Force Base in Utah.

Issue 2:        *Facilities With Limited Interactions with Native American Groups*

One-third of the facilities contacted had only limited interactions with Native American groups regarding known sacred sites or cultural resources. These interactions include informal meetings or isolated contact with native groups. Facilities with limited interactions may have developed MOAs or Cultural Resource Management Plans (CRMPs) that require the base to contact native groups regarding cultural resources, but they have not received any responses nor have they attempted to initiate further interaction. For example, Fort Sam Houston in Texas sent out letters of consultation to Native American groups as part of the facility's CRMP requirement to consult with "interested parties". This stipulation was created in order to fulfill the consultation requirements of the NHPA. The base has never received any responses from these consultation letters.

Several facilities that have been slated for closure under the Base Realignment and Closure (BRAC) procedures have discovered sacred sites or artifacts in the environmental impact studies required at all such facilities. In most cases, these facilities have had no prior interactions with Native American groups, but these have been identified and contacted or efforts are underway to contact them as a result of those finds.

A number of facilities are in the process of trying to improve communication with identified native groups in their area. Contacts reported they had initiated some interaction or had intentions to send letters and hold meetings with native representatives. For example, the presence of cultural resources at the Goldwater Air Force Range under the jurisdiction of Luke AFB has led base personnel there to announce at a public forum the intention to try to incorporate Native American input into their cultural resource management planning. Input has not yet been solicited.

At some facilities where sites exist, there are no regular interactions with tribes because no Native American groups have expressed interest in the area. For example, according to the *Special Nevada Report* (1991: 2-85), "Nellis AFB officials have previously corresponded to Native Americans without reply." Also, contacts at a few facilities felt that their attempts with either the tribes or umbrella organizations such as the Native American Heritage Commission (California) have been ignored. They have not received responses to requests for information or involvement. The lack of response requires further investigation.

Some contacts expressed a need for clarification of the treaties presently in force with native groups and the current legal situations regarding who must be contacted as required by Federal laws and regulations. In addition, concern was expressed over what to do and who to contact when facilities are located in areas with few remaining tribes or with groups that have not achieved Federal government recognition. Several individual requested copies of reports, examples of existing agreements, or other information to use as guidance in developing their Native American programs.

Issue 3:        *Facilities With Sustained Interactions with Native American Groups  
Not Governed by Specific Native Agreements or Policies*

Twenty-three percent of the facilities contacted have had more sustained interaction with Native American groups. These facilities have been involved with Native American groups on an on-going basis regarding access, reburials, cultural resource assessments, etc. They have had multiple contacts with these groups as relevant issues have arisen at their facilities. Nevertheless, these facilities have no agreements or policies that are with or specific to particular Native American groups. For example, interactions with tribes at Mountain Home AFB are handled through that base's contractor and include involvement since 1989 with the local Shoshone and Bannock tribes to fulfill NEPA requirements as well as recent contacts with those tribes regarding a proposed bombing range expansion. Recently, a liaison has been established at the base to interact with persons at the Duck Valley Indian Reservation regarding aircraft flyovers. As another example, Fort Carson in Colorado has a MOA with SHPO and the ACHP regarding historic properties which requires consultation with "interested parties," including Native Americans. The facility has consulted with native groups on at least two occasions in order to fulfill its legal requirements under NHPA and NAGPRA.

At some facilities, informal interactions take place with nearby non-recognized native groups. Contacts at some of these locations have indicated that they plan to seek out and

establish contact with officially recognized tribes that have historical ties to the military properties but were relocated to other areas in the past. For example, personnel at Eglin AFB in Florida have informal agreements with a local Native American group that is attempting to obtain federal recognition but intend also to contact three federally recognized tribes, including tribes now living outside Florida, for future consultation.

Fort Sill in Oklahoma is in a unique situation because personnel there have had extensive informal interactions with native groups but are only now in the process of developing formal agreements with specific Native American tribes. These formal agreements concern Native American access to and consultation over burial grounds located on the base.

Issue 4:       *Facilities With Formal Agreements/Policies Specific to Native Groups*

Twenty-one percent of the facilities contacted have developed either formal agreements with specific native groups regarding access or consultation or they have formal agreements or policies that require consultation with specific native groups. Formal agreements between military facilities and specific native groups regarding archaeological, historical, or other cultural resources have generally taken the form of memoranda of understanding or agreement. These agreements specify and describe native consultation procedures for the treatment of culturally significant properties found on the facilities. When the agreement concerns human remains, issues of access to the reburial sites are often incorporated in the these agreements.

A few facilities have full Native American participation in consultation and the development of procedures to facilitate access. The policies at these facilities include MOAs, MOUs, HPPs, and agreements with individual tribal members and tribal councils. One such program exists at Vandenberg Air Force Base, California, where a comprehensive program has developed over a fifteen year period. The interaction involves the facility and the Santa Ynez Band of Mission Indians, incorporating both representatives of the tribal council and individual tribal members. Key documents generated in the process of that program's development are provided in Appendix Eight.

Another example of extensive interaction between a military facility and Indian groups regarding access is Fort Lewis in Washington. This military base has a formal policy regarding Native American access to the facility. In addition to this Native American access policy, the base has a MOA with the Yakima tribe and a MOA with the Nisqually tribe regarding access to and use of lands on the facility and its accompanying training center. The base has also sent a letter of agreement to the Wanapum tribe which allows them access to the facility for purposes of hunting, fishing, gathering, and conducting ceremonies. These MOAs and others specific to Native American access to military installations are located in Appendix Four

Where access has not yet become an issue, formal agreements or policies pertaining to specific Native American groups usually require consultation over cultural resources. Archeological and ethnographic research is often conducted on military facilities as part of EISs,

Cultural Resource Management Plans, Historic Preservation Plans, or even Natural Resource Management Plans in order to identify sites that are culturally significant to Native Americans. Some examples of existing formal agreements with specific Native American groups that address consultation issues are provided in Appendix Five.

Some facilities require consultation with native groups through stated consultation relationships found within CRMPs, MOAs, MOUs, or related documents. The Navajo Army Depot in Arizona has a MOA with SHPO requiring that its CRMP be prepared in consultation with a number of specific tribes. The Yuma Proving Grounds in Arizona has a MOA with SHPO and ACHP that also requires consultation with a number of specific tribes.

Though many of the military facilities contacted acknowledged that little archaeological research had been completed at their locations, a few have done extensive work. An example of a developed research program is that of the Naval Air Weapons Station, China Lake, California. As part of the program, meetings have been held to discuss NAGPRA compliance and a NAGPRA implementation plan and bibliography of archaeological and cultural resource surveys particular to that site have been prepared. The agendas for these meetings, the plan, and the bibliography are provided in Appendix Nine.

### **Special Topics**

A few issues are presently being faced by certain military installations and warrant special attention. These include (1) the process of Base Realignment and Closure, (2) involvement with other government agencies, (3) withdrawn lands, (4) lands returned to Native American groups, and (5) concern with aircraft fly-overs.

#### *Base Realignment and Closure*

Base Realignment and Closure (BRAC) procedures have caused many facilities to consult with native groups over issues of access or consultation in archaeological surveys, often for the first time. Environmental impact studies are underway at facilities undergoing or recommended for closure. Future research and consultation associated with programs like BRAC were cited as reasons why access issues are expected to become more prevalent in the next few years. Examples include the interaction with the Narraganset Tribe and the Naval Battalion Center in Davisville, Rhode Island over burials discovered there and the MOA at the Yuma Proving Grounds that was proposed as part of BRAC construction there and spelled out the facility's obligation to concerned Native American tribes.

#### *Involvement With Other Government Agencies*

The activities at several facilities regarding archaeological or cultural resource projects have required the involvement of government agencies in addition to the military organizations. In some cases, the responsibility for native interaction has been left solely to the non-military agency. Examples of interagency involvement include the activities regarding the bombing range



expansion that involve the Air Force, the Bureau of Land Management and the state of Idaho, the management of a Native Alaskan burial site on the Adak AFB property by the U.S. Fish and Wildlife Service, and the interaction between Air Force facilities and the National Park Service at several locations. In addition, the need for expertise regarding cultural resource issues has led to an agreement assigning the U.S. Army Corps of Engineers office at Mobile, Alabama to act as the cultural resource advisors for Headquarters Marine Corps and a MOA between the St. Louis District of the U.S. Army Corps of Engineers and Naval Air Weapons Station, China Lake for technical assistance in the inventory and evaluation of federally owned and administered archaeological collections at that facility. A copy of the latter MOA is provided in Appendix Five.

Interactions between military installations and state agencies have generally involved the State Historic Preservation Offices of the states in which the facilities are located. Within the Northern Division Naval Facilities Engineering Command, for example, naval interactions are with the SHPOs as governed by Executive Order 12372, "Intergovernmental Coordination of Federal Programs." The SHPOs then contact the tribes as needed. Neither the Navy nor the Northern Division Command have entered into any agreements directly with tribes for either the exchange of information or coordination of efforts. Due to the extensive military activity within the state of Nevada, a comprehensive report, the *Special Nevada Report*, is available there. That report contains a description of defense-related activities in the State of Nevada as required by the Military Lands Withdrawal Act of 1986.

#### *Withdrawn Lands*

Non-military land in the U.S. has been used for military activities in several places. To provide clear legal authority for military use of such land in four states, the Military Lands Withdrawal Act was passed November 6, 1986. The withdrawn lands require special attention with regard to Native American concerns; several individuals at the military bases contacted referred specifically to the withdrawn lands under their jurisdiction. As required by the Act, by 1998 the Secretary of each concerned military department must publish a draft EIS, consistent with the requirements of NEPA, for any withdrawn lands for which that Secretary intends to seek continued or renewed withdrawal. The completion of an EIS will require that the Secretary invite the participation in the scoping process of any affected Native American groups. Withdrawn lands with known sites of interest to Native Americans include the Bravo-20 Bombing Range in Nevada, the Nellis Air Force Range in Nevada, the Barry M. Goldwater Air Force Range in Arizona, and the Fort Wainwright Maneuver Area in Alaska.

#### *Lands Returned to Native American Groups*

Several military properties are being returned to states or other federal agencies and subsequently to Native American groups. For example, the Kaho'olawe Training Area in the Hawaiian Islands is being turned over to the state of Hawaii. Similarly, Fort Richardson in the state of Alaska is on the list of bases facing possible closure. Native corporations have top-filed on this land as part of the Alaska Native Claims Settlement Act (ANCSA). At closure, the base

will probably be returned to these native groups. These property transfers may require special attention.

### *Aircraft Fly-overs*

Aircraft flights over native lands were identified by contacts as a problem in several locations. High-speed low altitude military aviation training missions that fly close to the contour of the ground can have a significant impact on cultural resource management. Since military fly-overs occur over large areas beyond military installation boundaries, the potential for widespread impacts of this sort are great. Flying missions can also lead to access restrictions on military lands for various types of sacred sites such as plant collecting areas or fasting/meditation places. This type of restriction at Naval Air Station Fallon in Nevada hampers Native American access to a highly significant curing rock and ceremonies conducted there. This subject has been the focus of a recent resolution by the National Congress of American Indians asserting tribal regulatory authority over the airspace above Native American lands. A copy of that resolution is provided in Appendix Ten.

## CONCLUSION

The subject of native interactions with military installations has not received much attention in either the published literature or among military employees. There is a consequent lack of formalized policies and procedures regarding native access and consultation. It has become evident that there is need for education and readily available information about archaeological, historical and cultural resource issues for military personnel. There is also a need for formalized policies and procedures concerning native access and consultation. This report provides an overview of the limited amount of material that exists relating to native access to DOD facilities. The prevalence of culturally significant sites on DOD facilities indicates that policies and procedures relating to consultation with Native Americans, Native Hawaiians, and Native Alaskans over access to these sites merits more concern.

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## APPENDIX ONE: BIBLIOGRAPHIC METHODOLOGY

Bibliographic information was obtained through searches of computerized databases, reviews of written documents, and personal communication with military personnel and Native American organizations. Computerized searches were conducted through the GPO Catalog (Monthly Catalog of Government Publications) at the University of Arizona's depository library and the Dialog system of National Technical and Information Service and Monthly Catalog Publications at the University of Michigan's government documents center. These searches uncovered few documents regarding Native American interaction with Department of Defense facilities. Subject headings searched include: The Office of Technical Information, The Technical Information Center, American Indians, Native Americans, Department of Defense, Army, Navy, Air Force, Marine, and Cultural Resource Management.

In addition, searches of the Infotrac and GEAC computer system at the University of Arizona and the MIRLYN and WILSON systems at the University of Michigan yielded no documents. Subject headings searched include: American Indians, Native Americans, Department of Defense, Army, Navy, Air Force, Navy, military, cultural resource, NHPA, and NAGPRA.

Review of the documents identified through the literature search provided a few additional *bibliographic references*. All references are included in the bibliography included at the beginning of this report.

The lack of published documents required personal contact with the Department of Defense facilities to obtain information concerning existing agreements. Points of contact were established through communication with national offices, military command headquarters for the various departments, and individual installations. The approach to phone contacts is described in Section Two of this report.

Information about written documents was obtained through the completion of a brief survey. A copy of the survey questions used is provided in Section Three. The information gained in the surveys is also summarized there. In addition, the phone contacts yielded much information regarding issues of Native American consultation and access at the various facilities. Responses are summarized in Section Four.

## **APPENDIX TWO: PHONE CONTACTS**

Phone contacts were made with persons in the Departments of the Army, Air Force and Navy and in the Marine Corps. The process for each division was determined by the circumstances surrounding the data collection and is described below. Information regarding the organization of the Department of Defense and the existence and location of the military facilities was obtained from the *U.S. and World Military and Government Installation Directory Service (1986 edition)*, the *1992 Federal Staff Directory*, and the *1992 United States Government Manual*.

### **Department of the Army**

1) Rebecca Johnson of the Department of Defense provided a list of cultural resource managers in the Department of the Army. From this list, five command centers were contacted: Army Material Command (AMC), FORSCOM, TRADOC, HQ Army National Guard, and HQ USA Western Command. Contacts at these centers provided the names of additional cultural resource managers at facilities where they believed issues of Native American consultation and access were of concern.

2) Individual facilities were contacted as indicated by the national and command center contacts. These facilities are listed below.

Aberdeen Proving Ground  
Dugway Proving Ground  
Fort Benning  
Fort Bliss  
Fort Drum  
Fort Greely  
Fort Hood  
Fort Huachuca  
Fort Irwin  
Fort Lewis  
Fort Monroe  
Fort Richardson  
Fort Sam Houston  
Fort Sheridan  
Fort Sill  
Fort Wainwright  
Fort Wingate  
Navajo Army Depot  
Pohakula Training Area  
The Presidio

**Redstone Arsenal  
White Sands Missile Range  
Yuma Proving Ground**

### **Department of the Navy**

1) Naval Facilities Engineering Commands were contacted to gain information about facilities in their command with issues regarding Native American consultation and access. Contacts were made at the Western Division, Pacific Division, Southern Division, Chesapeake Division, and Northern Division.

2) Individual Naval Air Stations were contacted as indicated by contacts at the command or by communication with persons at other facilities. The facilities contacted are listed below.

**Adak  
Brunswick  
Cecil Field  
China Lake  
Fallon  
Jacksonville  
Pensacola**

Sites of interest to Native Americans are located at several sites that were not contacted directly. These include Battalion Center Davisville, Rhode Island, and Chase Field, Texas which are undergoing closure, and the Naval Postgraduate School and Bravo 20 Target Range.

### **Marine Corps**

1) Contact was made with Neil Robinson at the U.S. Army Corps of Engineers office in Mobile, Alabama because of that office's agreement with Headquarters Marine Corps to act as their cultural resource advisors.

2) Individual installations with issues of Native American consultation and access were contacted. The following are the facilities where contact was made.

**Camp H.M. Smith  
Camp Lejeune  
Camp Pendleton  
Kaneohe Bay  
Logistics Base, Albany**



## **Department of the Air Force**

1) Lynn Engleman at Air Force Material Command provided a list of cultural resource managers at Air Combat Command, Space Command, Air Mobility Command, and Air Training Command. These individuals were contacted and provided information regarding installations within their command where they believed there would be issues of Native American consultation and access.

2) Individual Air Force installations were contacted as indicated by the cultural resource managers at the commands as well as by persons working at other air force facilities. In addition, a map of Air Force Bases was used to locate facilities and bases were selected in a fairly random fashion from that list to provide information about issues they may have confronted. (Map attached) Due to the lack of a particular contact person at most facilities, various offices were contacted. The facilities and the offices contacted are listed in Table 4.

TABLE FOUR: CONTACTS WITH MILITARY FACILITIES

AIR FORCE BASES								
	Public Affairs	Social Action	Legal/ Contract	Environ. Mgmt.	Real Prop.	Arch./ Cul Res	Base Closure	Other
Altus	X							
Davis Monthan						X		
Edwards						X		
Eglin	X							
Elmendorf	X							
Ellsworth	X					X		X
Francis Warren	X			X				X
Grand Forks	X			X				
Griffis	X						X	
Hill	X							
Holloman	X							
Kirtland	X							
Langley	X		X					
Loring	X	X		X	X		X	
Lowry		X						
Luke						X		X
Mountain Home				X		X		X
Myrtle Beach	X						X	
Nellis				X				
Niagara Falls	X							
Norton				X				
Otis	X			X				
Patrick	X			X				
Peterson	X							
Pope	X			X				
Randolph			X					X
Robins				X				
Scott	X							
Seymour Johnson	X							
Tinker								
Trevis	X							
Vance	X	X						X
Vandenberg	X					X		
Westover	X							
Wright Patterson	X			X				
Williams	X			X				
Wurtsmith	X							

NAVAL AIR STATIONS								
	Public Affairs	Social Action	Legal/ Contract	Environ. Mgmt.	Real Prop.	Arch./ Cul Res	Base Closure	Other
Adak	X	X						
Brunswick	X							
Cecil Field	X			X				
China Lake						X		
Fallon	X		X					
Jacksonville	X							
Pensacola		X		X				

MARINE CORPS								
	Public Affairs	Social Action	Legal/ Contract	Environ. Mgmt.	Real Prop.	Arch./ Cul Res	Base Closure	Other
Camp H.M. Smith	X							
Camp Lejeune				X				
Camp Pendleton				X				
Kaneohe Bay	X			X				
Logistics Base	X			X				

### APPENDIX THREE: PHONE SURVEY QUESTIONS

#### LEGACY PROGRAM - DATA CONCERNING NATIVE AMERICAN CONSULTATION

Contact Person \_\_\_\_\_  
Agency \_\_\_\_\_ Phone \_\_\_\_\_  
Location \_\_\_\_\_  
Talked to \_\_\_\_\_ Date \_\_\_\_\_

- 1) Agency policy and procedures concerning Native American consultation
- 2) Formal agreements such as MOAs or MOUs concerning the particular division/site and any Native American tribes

Who with:  
What access is for:

When agreement was made:  
Where for:

- 3) Any regular interactions with Native American tribes (ie specific requests, programs)
- 4) Have Native American tribes ever contacted you about archaeology or to come visit the property (to hunt, gather, conduct ceremonies)?

Who requested access:  
What access was for:

When requested:  
Where for:

- 5) Did any EIS, cultural resource plans, etc. yield recommendations about tribal access?

Were these followed? How?

## **APPENDIX FOUR: EXAMPLES OF FORMAL POLICIES AND PROCEDURES SPECIFIC TO NATIVE ACCESS**

Native Americans are granted access to military facilities through a variety of procedures. Examples of policies granting native access are provided here.

- 4.1 Memorandum of Agreement between Commander Naval Weapons Center and Owens Valley Paiute-Shoshone Band of Indians
- 4.2 Letter of Access to North Vandenberg Air Force Base
- 4.3 Memorandum of Understanding among The Comanche Tribal Council, The American Indian Resource and Education Coalition, Inc., and The United States Army at Fort Hood, Texas on the use of Federal land for reburial of repatriated human remains
- 4.4 Memorandum of Agreement between The United States of America, Secretary of the Army and The Nisqually Indian Community of the Nisqually Reservation
- 4.5 Memorandum of Agreement between U.S. Army, I Corps and Fort Lewis and the Confederated Tribes and Bands of the Yakima Indian Nation regarding the Yakima Training Center
- 4.6 Letter of Access to the Yakima Training Center for the Wanapum People
- 4.7 Yakima Training Center Policy Number 92-08. Native American Access

## MEMORANDUM OF AGREEMENT

The Commander Naval Weapons Center acting for and on behalf of the U. S. Government and the Coso Ad Hoc Committee, Owens Valley Paiute-Shoshone Band of Indians, acting for and on behalf of the Indians represented by that group, as well as for certain Indian people in the Kern Valley Indian Community area, are desirous of entering into this agreement for the mutual benefit of both parties. The general subject of the agreement is access to and related matters concerning the area known as Coso Hot Springs, located within the Naval Weapons Center, China Lake, California.

The parties hereafter referred to as the Naval Weapons Center and the Native Americans respectively, hereby agree:

1. That the terms of this Memorandum of Agreement are based upon the primacy of the mission of the Naval Weapons Center and that any or all access provisions herein agreed to shall be premised on a not-to-interfere with that mission basis;

2. That both parties to this Memorandum of Agreement recognize the provisions of Public Law 95-341 "Native American Religious Freedom" and its mandate for an evaluation of existing laws and regulations. Therefore, the terms of this Memorandum of Agreement are subject to review at the request of either party following the Presidential submittal of the evaluation to the Congress;

3. That the requirements of the Historic Preservation Act of 1966 (Public Law 89-665) shall be scrupulously adhered to by both parties and that both parties agree to diligently pursue the formulation and acceptance of a preservation and management plan for the Coso Hot Springs National Register of Historic Places site;

4. That upon request a maximum of eight (8) scheduled weekend visits per year shall be reserved exclusively for members of the Owens Valley Paiute-Shoshone Band of Indians and/or the Kern Valley Indian Community. Such visits shall be limited to a maximum of twenty five (25) vehicles and one hundred (100) people on any given weekend. The duration of any one weekend visit shall be from sunrise Saturday to sunset Sunday. However, up to three (3) two-night visits may be scheduled on Federal holidays which fall on weekends;

## MEMORANDUM OF AGREEMENT

5. That unscheduled visits shall be considered on a case-by-case basis by the Commander, Naval Weapons Center, upon receipt of a written request by the Chairperson of the Coso Ad Hoc Committee describing the need for the visit, or a Committee member in the Chairperson's absence. In instances which the Chairperson considers a bona fide emergency, the request may be made by telephone and shall be followed with written confirmation;

6. That Native American groups other than the Owens Valley Paiute-Shoshone Band of Indians and those from the Kern Valley Indian Community are not covered by this agreement. However, medicine men who may be visiting the aforesaid groups may accompany these groups. Requests from other Native American groups shall be considered on a case-by-case basis;

7. That the boundaries of the visit area shall be the immediate vicinity of the Prayer Site, Coso Hot Springs, the old resort of the same name, and a designated overnight camping area. These areas are specified on a map accompanying this Memorandum of Agreement;

8. That appropriate sanitary facilities shall be provided by the Naval Weapons Center and installed in the camping area;

9. That the visiting Native Americans shall carry out all trash and garbage and shall police up their own camping area. On-site rubbish receptacles shall not be provided by the Naval Weapons Center;

10. That the Naval Weapons Center shall provide an escort for all visits; the escort shall be a person acceptable to the Ad Hoc Committee. During any ceremony, upon request, the escort shall withdraw to a discrete distance and shall not intrude on traditional rites;

11. That material or substantial alteration or permanent disturbance of the hot springs or the pond shall not be permitted. Both the Naval Weapons Center and the Native Americans pledge their mutual cooperative efforts to expeditiously develop a preservation and management plan acceptable to both parties and to the California State Office of Historic Preservation and approvable by the Advisory Council on Historic Preservation;

12. The Naval Weapons Center will provide Assumption of Risk forms to the Coso Ad Hoc Committee to be signed by each adult individual desiring to enter the Naval Weapons Center under provisions of this agreement. A designated Indian visit leader will be responsible for assembling all executed Assumption of Risk forms from each adult visitor for presentation to the Navy escort at time of entry. The Naval Weapons Center will maintain a permanent file of signed Assumption of Risk forms and repeat visitors will not be required to provide new forms for subsequent visits.

## MEMORANDUM OF AGREEMENT

13. That in the event the mission of the Naval Weapons Center requires use of its ranges, any or all visits shall be subject to cancellation without prior notice and under the same conditions are subject to immediate termination. The Coso Ad Hoc Committee shall be responsible for assisting the Naval Weapons Center, when and if necessary, in the event immediate evacuation of visitors from the area is required to conduct the mission of the Naval Weapons Center;

14. That the Naval Weapons Center reserves the right to prohibit future access if the terms of this Memorandum of Agreement are deliberately or materially violated by visiting Native Americans; and that the standards of conduct established for Naval Weapons Center personnel, federal, state or local agencies, and contractors while on the NWC ranges will be observed by visiting Native Americans.

*W.L. Harris*

For the Naval Weapons Center  
Rear Admiral, U.S. Navy

*McDermott Taylor*  
For the Coso Ad Hoc Committee

*Ruth Brown*  
For the Coso Ad Hoc Committee

*Elizabeth McClain*  
For the Coso Ad Hoc Committee

*Phyllis Thurston*  
For the Coso Ad Hoc Committee

*Gail P. Ulisworth*  
For the Coso Ad Hoc Committee

Date June 28, 1979

Date July 25, 1979 9:15 a.m.

Approved as to Form on behalf of  
the Owens Valley Paiute-Shoshone  
Band of Indians

*Arthur J. Mault*  
CALIFORNIA INDIAN LEGAL SERVICES

Date June 25, 1979



DEVH file 3F  
SHB

2 APR 1992

G2 J  
DEV JH  
3/2/92

DEVH m/m

DEVH ~~SHB~~

Ms Juanita Centeno  
103 Cabrillo Lane  
Santa Ynez CA 93460

Dear Ms Centeno

You are granted access to North Vandenberg Air Force Base to collect plants until March 1993. You must not collect the candidate threatened and endangered plants listed on the attachment. These plants are protected on Vandenberg. A copy of this letter will be on file with our Visitor Control Center where a temporary day pass will be issued to you. The following stipulations also apply:

a. You must carry a copy of this letter with you during your visits to Vandenberg.

b. If you happen to be on base during a hazardous or security operation, you will be asked to depart the area. To avoid this, I request that you contact our Public Affairs Office at (805) 734-8232, ext 6-5816, prior to your visit so any conflict may be avoided.

If you require any additional time to collect vegetation, please contact Mr Larry Spanne at 30 CEG/DEVH, (805) 734-8232, ext 5-0748.

Sincerely

- signed -

R. P. JONES, Colonel, USAF  
Director, Environmental Management

1 Atch  
Plant List

cc: 30 SPS/CC

AFD: a:spa/acc.nb/hv

# CANDIDATE THREATENED AND ENDANGERED

## Plants

<u>Common Name</u>	<u>Scientific Name</u>	<u>Habitat</u>
*Shag Bark Manzanita (C)	<u>Arctostaphylos</u> <u>rudis</u>	Burton Mesa Chaparral, Coastal Scrub
*La Graciosa Thistle (C)	<u>Cirsium</u> <u>loncholepis</u>	Coastal Dunes
*Surf Thistle (C)	<u>Cirsium</u> <u>rothophilum</u>	Coastal Dunes
*Seaside Bird's-Beak (C)	<u>Cordylanthus</u> <u>rigidus</u> ssp. <u>littoralis</u>	Burton Mesa Chaparral
*Beach Spectacle Pod (C)	<u>Dithyrea</u> <u>maritima</u>	Coastal Dunes
*Lompoc Yerba Santa (C)	<u>Eriodictyon</u> <u>capitatum</u>	Burton Mesa Chaparral, Bishop Pine Forest
*Beach Layia (C)	<u>Layia</u> <u>carnosa</u>	Coastal Dunes
*Crisp Monardella (C)	<u>Monardella</u> <u>crispa</u>	Coastal Dunes, Dune Scrub, Coastal Sage Scrub
*San Luis Obispo County Monardella (C)	<u>Monardella</u> <u>undulata</u> var. <u>frutescens</u>	Coastal Dunes, Dune Scrub
*Black-Flowered Figwort (C)	<u>Scrophularia</u> <u>atrata</u>	Coastal Dune, Dune Scrub, Coastal Sage Scrub
*Aphanisma (C)	<u>Aphanisma</u> <u>blitoides</u>	Coastal Scrub
*Gambel's Water Cress	<u>Rorippa</u> <u>gambellii</u>	Barka Slough
*Hoffmann's Sanicle (C)	<u>Sanicula</u> <u>hoffmannii</u>	Coastal Sage Scrub

MEMORANDUM OF UNDERSTANDING AMONG  
THE COMANCHE TRIBAL COUNCIL,  
THE AMERICAN INDIAN RESOURCE AND EDUCATION COALITION, INC., AND  
THE UNITED STATES ARMY AT FORT HOOD, TEXAS  
ON THE USE OF  
FEDERAL LAND FOR REBURIAL OF REPATRIATED HUMAN REMAINS

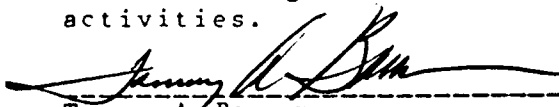
1. The Commanding General, III Corps and Fort Hood, having requested the assistance of the Comanche Tribal Council in the proper reburial of certain Native American human remains, enters into this Agreement in order to provide an appropriate location for the reinterment. The remains were held in the Fort Hood archeological laboratory, but the passage of the Native American Grave Protection and Repatriation Act by Congress in October 1990, dictated the repatriation and reburial of all such remains to the appropriate Native American Tribal Group.
2. In that the Comanche Tribe is generally acknowledged to have been in control of the Central Texas area where Fort Hood is located during the late 18th and early 19th century, the presumption under the Act is that the remains are most appropriately offered to them for repatriation and appropriate reburial. This Agreement provides for the use of no more than five acres of the federal reservation at Fort Hood for the purpose of the appropriate reburial of the curated remains. It is also agreed that the Army is obligated under the law to protect and maintain the reburial site, regardless of the status of this Agreement.
3. This Memorandum will remain in effect until terminated by any of the three parties. A ninety (90) day notice will be given in writing by any party wishing to terminate this Agreement.
4. It has been mutually agreed that the reburial site will be located within the tract of some 55 acres which the Army has separately fenced because it contains a separate archeological site known as the Leon River Medicine Wheel, which has significance in Native American religious practice. The parties shall jointly select an appropriate parcel within that fence, of not more than five acres for use as a reburial site. If requested to do so, the Army will erect a fence around the selected parcel.
5. It is agreed that the Comanche and other Native American groups may use the designated site for interment of other repatriated human remains and that access for this and other ceremonial purposes will be afforded to them. It is further agreed that burial of remains at the site will be limited to those now held in anthropological collections or subsequently recovered in archeological contexts, including looted remains.

6. It is further agreed that the adjacent Leon River Medicine Wheel archeological site may also be used by Native American groups for religious ceremonies provided that the stone circles themselves and any associated artifacts are left undisturbed. The Army will screen visitors to the medicine wheel and reburial sites and agrees to admit those persons authorized by the Comanche Tribal Council or the American Indian Resource and Education Coalition, Inc., for the purposes stated above. However, the Army at its sole discretion may exclude or eject any person from this federal property for cause.

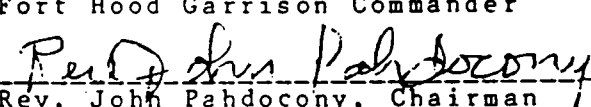
7. It is further agreed that scientific archeological work to date and otherwise elucidate the history of the Leon River Medicine Wheel Site shall continue, and that the site will be preserved and listed on the National Register of Historic Places. It is agreed that such scientific undertakings shall be conducted in a sensitive manner consistent with the site's religious significance.

8. The Army will retain formal ownership of the lands involved to ensure that both the reburial site and the archeological site are protected under federal statute.

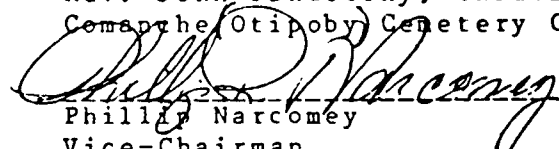
9. The parties agree that large ceremonies shall be arranged in advance in writing. Any party to this Agreement may challenge any request to conduct a ceremonial event which appears to be purely exploitative or lacking in legitimate Native American religious content. Individual visits by small groups of less than twenty-five persons may be arranged with DEH point of contact by presenting a letter of permission from any of the parties to this Agreement. However, only the Army shall authorize visits for scientific or archeological purposes. The parties agree to further develop a mutually agreeable system for coordinating access to the sites and the scope of permissible activities.

  
Tommy A. Baucum  
Colonel, AR  
Fort Hood Garrison Commander

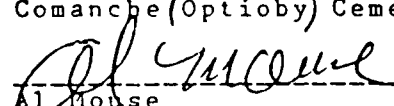
25 October 1991  
Date

  
Rev. John Pahdocony, Chairman  
Comanche (Optiboy) Cemetery Committee

9/11/91  
Date

  
Phillip Narcomey  
Vice-Chairman  
Comanche (Optiboy) Cemetery Committee

11 September '91  
Date

  
Al House  
Vice-President  
American Indian Resource and  
Education Coalition, Inc.

9-15-91  
Date

MEMORANDUM OF AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA, SECRETARY OF THE ARMY  
AND  
THE NISQUALLY INDIAN COMMUNITY OF THE NISQUALLY RESERVATION

This Agreement is made by and between the Secretary of the Army for and on behalf of the United States of America (hereafter the "United States") and the Nisqually Indian Community of the Nisqually Reservation (hereafter called the "Tribe").

BACKGROUND

Certain lands within the Fort Lewis Military Reservation in the State of Washington are within the boundaries of the Nisqually Indian Reservation as it was established by the Executive Order of January 20, 1857, pursuant to Article VI of the Treaty of Medicine Creek of 1854, 10 Stat. 1132. Within these overlapping boundaries lies a certain site commonly known as Carter Woods within which are located springs and streams often referred to as Clear Creek and Hill Creek. This site (hereafter called Clear Creek site) runs from the bluff of the prairie, down to the Nisqually River at a location approximately six miles upriver from the Nisqually River's confluence with Puget Sound.

The Clear Creek site has been identified by the Nisqually Indian Tribe, the State of Washington, the United States Department of the Interior and the U.S. Congress as the priority Southern Puget Sound site for a major fish hatchery because of its water quality and availability, its location relevant to the Nisqually Tribal fisheries and its contribution to other treaty and nontreaty sport and commercial fisheries in the Puget Sound region. The importance of this site for fish hatchery purposes is emphasized by a number of factors, including (1) the United States' obligations to the Nisqually Indian Tribe under the clause of The Treaty of Medicine Creek of 1854 which reserves and secures fishing rights to the Nisqually Indian Tribe, (2) the potential disruption to nontreaty Puget Sound fishermen from full implementation of the Nisqually Tribe's fishing rights without such a hatchery, and (3) by the Pacific Salmon Treaty between the United States and Canada which appropriately assures harvest benefits of such hatchery production to fisheries of the Puget Sound region. The feasibility of the Clear Creek location for a major fish hatchery has been evaluated and a report prepared. "Nisqually Fish Hatchery Feasibility Report," May 1982.

PRELIMINARY RECITATIONS OF THE PARTIES

The Tribe desires to use approximately 150 acres, more or less, of land within the Carter Woods area and known as the Clear Creek site for a fish hatchery and related purposes.

Section 840 of the 1985 Military Construction Act authorizes and directs the Secretary of the Army to make the Clear Creek site available to the Tribe under such terms and conditions as deemed appropriate.

MEMORANDUM OF AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA, SECRETARY OF THE ARMY  
AND  
THE NISQUALLY INDIAN COMMUNITY OF THE NISQUALLY RESERVATION

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Section 840 of the 1985 Military Construction Act authorizes and directs the Secretary of the Army to make the Clear Creek site available to the Tribe under such terms and conditions as deemed appropriate.

The Secretary of the Army has consented to allow use of the Clear Creek site for fish hatchery purposes identified by the Tribe, the State and the Congress as important for Puget Sound salmon production. The Secretary of the Army also desires to protect the security of the Fort Lewis Military Reservation by limiting public access to the Clear Creek site and maintaining its use as a buffer for military training activities.

Both the Tribe and the United States desire to maintain the environmental integrity and water quality of the Clear Creek site and its surrounding environs.

The Tribe maintains that there were certain deficiencies in the condemnation proceedings by which Pierce County, Washington, acquired for donation to the United States Army the Nisqually Reservation lands on the Pierce County side of the Nisqually River. The Tribe also maintains that certain of these lands, including a Tribal cemetery site and the bed and waters of Lake Nisqually, were never acquired by Pierce County or the United States but were simply taken from the Tribe without pretense of legal process. The United States does not accede to the Tribe's position, but desires to continue to enjoy uninterrupted access to much of these disputed areas for military training purposes as part of the Fort Lewis Military Reservation.

The Congress has appropriated sums for the design, engineering and first phase construction of the Nisqually Fish Hatchery at Clear Creek in its FY 1981 and 1986 appropriations for the Department of the Interior and related agencies.

#### AGREEMENTS OF THE PARTIES

NOW in light of the foregoing recitations of the parties and in consideration of the mutual promises hereafter made by this Agreement, the United States and the Tribe agree as follows:

##### I. SHORT TERM LICENSE

The United States shall immediately grant a license to the Tribe for the purpose of soils tests, surveying the Clear Creek site, preparation of a legal description and development of initial roads to the site. Such work shall not be done at the expense of the United States Army. This license shall be substantially as set forth in the attached Exhibit "A", which is hereby made a part of this paragraph and Agreement.

##### II. LEASE OF CLEAR CREEK SITE

Upon final approval of the legal description for the Clear Creek site, the United States shall grant the Tribe a lease for the site. The lease shall be substantially as set forth in the attached Exhibit "B", which is hereby made a part of this paragraph and Agreement. The lease shall be for a term of twenty-five (25) years with an option to renew for additional twenty-five (25) year terms.

### III. TRIBAL CONVEYANCE OF TITLE TO UNITED STATES

Concurrently with the granting of the lease to the Tribe as provided in Article II of this Agreement, the Tribe shall convey its right, title and interest, if any, in and to Lake Nisqually and a certain Tribal cemetery site within that portion of the Nisqually Indian Reservation, as reserved by Executive Order dated January 20, 1857, which lies east of the Nisqually River. The deed by which the Tribe conveys these sites to the Army shall be substantially as set forth in the attached Exhibit "C", which is hereby made a part of this paragraph and Agreement. The deed provides that the right, title and interests conveyed by the Tribe in the deed shall revert to the Tribe whenever the United States ceases to use the land described in the deed for military purposes.

### IV. HUNTING AND FISHING

This Agreement does not alter existing hunting and fishing rights. The Tribe and the United States agree to cooperate in providing for the orderly exercise of tribal hunting and fishing rights on the Fort Lewis Military Reservation. To facilitate notice and communication between the parties in respect to tribal hunting and fishing, the Tribe designates the Director of its Department of Natural Resources, and the United States designates its Director of Personnel and Community Activities at Fort Lewis, as their respective points of contact for information and communication concerning Tribal hunting and fishing and the regulation thereof.

In furtherance of this Agreement the Tribe shall provide the United States notice of Tribal identification cards used to identify treaty Indians eligible to hunt and fish in the exercise of the Tribe's hunting and fishing rights. Treaty Indians with tribal identification cards will not be required to possess state or federal licenses or permits for or related to hunting and fishing. The Tribe also shall provide timely notice of the openings and closings of specific Tribal hunting and fishing areas and of areas on the Nisqually Indian Reservation available for sport fishing by members of the general public. Similarly, the United States shall provide the Tribe notice of areas within the Fort Lewis Military Reservation which are deemed unsafe for Tribal hunting and fishing. Upon satisfaction of the Tribe's interests in assuring there is a valid common-sense safety concern, the Tribe agrees to close such areas to hunting and fishing by its members,

For wildlife management purposes, the Tribe will report game taken on Fort Lewis by Tribal hunters to the Director of Personnel and Community Activities.

### V. JURISDICTION: NISQUALLY RESERVATION LANDS EAST OF RIVER

The Tribe agrees not to exercise its asserted jurisdiction on that portion of the original Nisqually Indian Reservation, as reserved by Executive Order dated January 20, 1857, which lies east of the Nisqually River, in any manner that disrupts or is in conflict with military operations of the United States Army on the Fort Lewis Military Reservation.



## VI. WATERSHED AND WATER QUALITY

The United States and the Tribe acknowledge that the quality and quantity of water in and adjacent to the Clear Creek site and the contours of the watershed, are of primary value to this Agreement. The United States agrees to avoid activities on Fort Lewis which are (now or in the future) expected to cause deterioration of water quality or quantity to and on the Clear Creek site. Whenever the United States proposes to initiate any significant new military training program which may affect the watershed contributing to the Clear Creek site, the United States will contact the Tribe to obtain Tribal input on water quality and quantity protection measures. The parties agree to pursue their existing practice of discussing potential impacts and effects on the watershed apart from statutory requirements.

## VII. EXHIBITS A, B, AND C ARE PART OF AGREEMENT

Attached to this Agreement are three documents: (1) Exhibit "A", a short term license granted by the United States to the Tribe, (2) Exhibit "B", a twenty-five (25) year renewable lease of the Clear Creek site from the United States to the Tribe, and (3) Exhibit "C", a warranty deed from the Tribe to the United States conveying title to certain lands. Each and every provision of these three Exhibits "A", "B" and "C" is a primary part of this Agreement between the United States and the Tribe and is hereby made a part of this Agreement as though written word for word in the text of this Agreement. Any disputes, ambiguities or uncertainties about the parties' intent, proper interpretation or meaning of any part of Exhibit "A", Exhibit "B" or Exhibit "C" shall be read and interpreted according to the meanings and intentions of the parties as set forth in this Agreement.

## VIII. CONSULTATION

The United States and the Tribe agree to meet annually during the first quarter of the calendar year to discuss the Tribe's lease of the hatchery site near Clear Creek, the matters referred to in this Agreement, and such other matters as may arise, in order to promote and maintain a good working relationship between the United States and its administration of the Fort Lewis Military Reservation and the Tribe.

## IX. RESCISSION, MODIFICATION AND TERMINATION

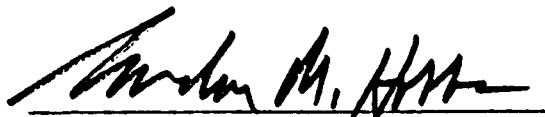
Each and every provision of this Agreement, including Exhibits "A", "B" and "C", is material to the Agreement of the parties. Except as otherwise provided in this agreement, in the subject exhibits, or as subsequently agreed, this Agreement and its Exhibits "A", "B" and "C" may be rescinded, changed or terminated only by the mutual agreement of both parties expressed in writing.

DATED this 13<sup>th</sup> day of May 1988

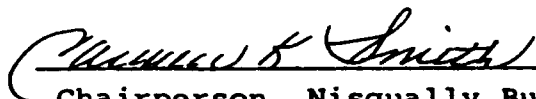
FOR THE UNITED STATES ARMY

FOR THE NISQUALLY INDIAN TRIBE

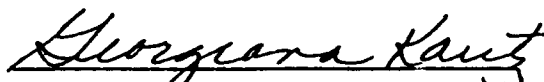
BY DIRECTION OF THE ASSISTANT SECRETARY OF THE ARMY  
(INSTALLATIONS AND LOGISTICS)



Gordon M. Hobbs  
Assistant for Real Property  
OASA(16L)



Chairperson, Nisqually Business  
Committee



Secretary, Nisqually Business  
Committee

Signed pursuant to Nisqually Indian  
~~Community Resolution No. 37-1986~~

**MEMORANDUM OF AGREEMENT**  
**BETWEEN**  
**U.S. ARMY, I CORPS AND FORT LEWIS**  
**AND THE**  
**CONFEDERATED TRIBES AND BANDS OF THE**  
**YAKIMA INDIAN NATION**  
**REGARDING**  
**THE YAKIMA TRAINING CENTER**

The Army and the Confederated Tribes and Bands of the Yakima Indian Nation (hereafter, Yakima Indian Nation) shall work together to ensure the protection of the Yakima Indian Nation's 1855 Treaty rights (12 Stat. 951) and the protection of those resources within the Yakima Training Center which are so important for the maintenance of their traditional life ways. The resources include, but are not limited to, the land, air and water, fish and wildlife, cultural and archaeological resources.

The Army and the Yakima Indian Nation recognize the aboriginal, historical, cultural, spiritual and substance ties which the Wanapum People also have within the Yakima Training Center. The parties to this Memorandum of Agreement acknowledge that the Wanapum People, who live in the village of Priest Rapids, their children and the yet unborn will continue to use the Yakima Training Center in the years to come to carry out their traditional and accustomed beliefs and practices.

When the Army no longer needs the Yakima Training Center for military training, the Commander, Fort Lewis, does hereby commit to designating, in the document of availability, transfer of Yakima Training Center lands to the Department of Interior for the primary use of the Yakima Indian Nation and the Wanapum People at that point when the lands are no longer required by the Army for brigade level training or comparable training activities.

The Army respects the access rights of the Yakima Indian Nation under the Treaty of 1855. At the same time, the Army, the Yakima Indian Nation and the Wanapum People recognize the need to establish reasonable entry procedures to prevent injury, loss of life or undue interference with ongoing military operations. To ensure that safety hazards are minimized, and that no conflicting military exercises are taking place, the Yakima Indian Nation shall establish a point of contact at their headquarters for coordination of access by Yakima tribal members. This contact person shall regularly communicate with YTC Range Control to determine whether any access limitations exist. The Wanapum People shall continue to have access rights as they currently have.

When the Army schedules major training events at Yakima Training Center, the Yakima Indian Nation and the Wanapum People will be notified through the congressionally mandated Cultural and Natural Resources Committee. The Committee may review the training scenario to ensure it complies with sound management practices.

Although the Army has signed a separate Memorandum of Agreement (MOA) with the State of Washington, such MOA does not provide the State of Washington any increased or new jurisdiction over the Yakima Training Center which it does not already possess. The Army and the Yakima Indian Nation are united in their belief that the Treaty of 1855, the Supremacy Clause of the United States Constitution and federal law supercede conflicting provisions of any MOA or similar documents, including the MOA with the State of Washington.

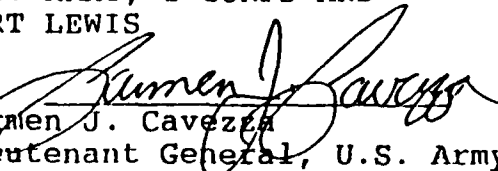
The Yakima Indian Nation and the Army (Fort Lewis and Yakima Training Center), through their designated representatives, agree to meet annually, along with the representatives of the Wanapum People, during the first quarter of the calendar year to promote continued coordination, cooperation and a good working relationship as committed to herein. The meeting will be regularly scheduled and is in addition to any other meetings called by one of the parties when needed to discuss matters which may arise.

The Army realizes and understands that Congress, through House Conference Report 102-236, has mandated conditions pertaining to the protection of Treaty rights and understands that these conditions must be fully complied with for a good working relationship to be in place.

This document is not an all-inclusive document and does not waive, alter or otherwise diminish the rights, privileges, remedies or services guaranteed by the Yakima Treaty of 1855. It does not modify any past agreements between the Army and the Wanapum People, nor foreclose any of their aboriginal rights. By entering into this Memorandum of Agreement, the Yakima Indian Nation does not waive, alter or diminish their "sovereign immunity".

U.S. ARMY, I CORPS AND  
FORT LEWIS

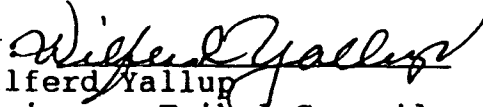
BY:

  
Carmen J. Cavezza  
Lieutenant General, U.S. Army  
Commanding General

Date: November 24, 1992

YAKIMA INDIAN NATION

BY:

  
Wilferd Gallup  
Chairman, Tribal Council  
Yakima Indian Nation

Date: December 11, 1992

R E S O L U T I O N

T-14-93

WHEREAS, the Confederated Tribes and Bands of the Yakima Indian Nation is a federally recognized Tribe pursuant to the Treaty of 1855 (12 Stat. 951), and

WHEREAS, the Yakima Tribal Council is the governing body of the Yakima Indian Nation of the Yakima Reservation, Toppenish, Washington, by the authority delegated by Resolution T-38-56, and

WHEREAS, the Yakima Indian Nation, since time immemorial, has viewed the Treaty aboriginal and Ceded Area lands and its resources as being a significant religious, cultural and traditional importance, and

WHEREAS, the Yakima Firing Center is located within the Ceded Area of the Yakima Indian Nation, and

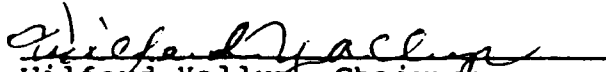
WHEREAS, Congress has mandated the Army to enter into a Memorandum of Agreement with the Yakima Indian Nation, which will ensure protection of Treaty Rights, establish a Cultural and Natural Resources Committee, require the Army to develop "a comprehensive plan for training and land use," and make long-term plans for transfer of the Yakima Training Center to the Dept. of Interior for the primary use of the Yakima Indian Nation and the Wanapum people when the Army no longer requires the land for brigade level training.


NOW, THEREFORE, BE IT RESOLVED, by the Yakima Tribal Council meeting in regular session at the Governmental Offices of the Confederated Tribes and Bands of the Yakima Indian Nation, Toppenish, Washington, with a quorum being present, hereby approves and adopts the attached Memorandum of Agreement.

BE IT FURTHER RESOLVED, that the Yakima Indian Nation does not waive, alter, or otherwise diminish their "sovereign immunity" whether expressed or implied by virtue of enacting this resolution. Nor does the Yakima Indian Nation waive, alter, or otherwise diminish their rights, privileges, remedies, or services guaranteed by the Treaty of 1855.

DONE AND DATED on this 10th day of November, 1992, by the Yakima Tribal Council by a vote of 5 for and 2 against.

ATTEST:

  
Wilferd Yallup, Chairman  
Yakima Tribal Council

  
Lonnie Selam, Sr., Secretary  
Yakima Tribal Council



DEPARTMENT OF THE ARMY-  
HEADQUARTERS, 1 CORPS AND FORT LEWIS  
FORT LEWIS, WASHINGTON 98433-5000



REPLY TO  
ATTENTION OF:

23 OCT 1991

Office of the  
Commanding General

Wanapum Tribe  
P.O. Box 275  
Beverly, Washington 99321

To the Wanapum People:

The Wanapum People have lived along the Columbia River for hundreds of years. From White Bluffs north to Rock Island, they traveled and foraged for food, medicines, and other gifts the land had to offer. The Wanapum People are now confined to a village at Priest Rapids. They continue to access the land around their village for food, medicine, spiritual and religious reasons. Some of the land they use includes the Yakima Training Center.

The Army recognizes the historical, cultural, spiritual and subsistence ties the Wanapum People have with the land. The Army acknowledges that the Wanapum People who live in the village at Priest Rapids and their children and the yet unborn will continue to use the Yakima Training Center in the years to come to carry out their traditional and accustomed beliefs and practices. The Army also recognizes the sacred cemetery sites on the Yakima Training Center and acknowledges that these sites have been and will continue to be protected.

Sincerely,

Paul R. Schwartz  
Major General, U.S. Army  
Commanding Officer



DEPARTMENT OF THE ARMY  
HEADQUARTERS, YAKIMA FIRING CENTER  
YAKIMA, WASHINGTON 98901-5000



REPLY TO  
ATTENTION OF:

AFZH-Y-IC

26 October 1992

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: YTC Policy Number 92-08. Native American Access

The Priest Rapids Wanapum people have lived along the Columbia River on the eastern drainage of the Yakima Training Center (including the expansion) since time immemorial. This policy letter institutionalizes prior verbal agreements as a reference for those yet unborn. The undersigned acknowledges the Wanapum's rights to hunt, fish, gather foods, practice their religion and bury their dead on the Yakima Training Center. Furthermore, access is granted, to use the resources of YTC as they have in the past, with slight exceptions in the interest of safety. Those exceptions are:

1. Permanent Impact Areas must not be entered at any time.
2. Live fire exercise areas must be avoided when in use.
3. Large scale vehicle maneuvers must be avoided, especially during the hours of darkness.

To better facilitate a mutual understanding, the YTC Range Officer will call the designated Wanapum leader weekly (or more often if needed) to discuss safety and access information.

The Yakima Indian Nation has a right to utilize traditional resources at YTC as they do on all lands ceded under the Treaty of 1855. Because they do not presently live in immediate proximity to YTC, as do the Wanapum people, different exceptions in access are considered appropriate.

The Army respects the access rights of the Yakima Indian Nation under the Treaty of 1855. At the same time the Army and the Yakima Indians must recognize the need to establish reasonable entry procedures to prevent injury, loss of life, or undue interference with ongoing military operations. Permanent impact areas must not be entered at any time. Accordingly, Yakima Tribal members shall be allowed access to exercise Treaty rights when:

1. No live fire maneuvers or other safety hazards exist.
2. No conflicting exercises are taking place.

3. The Tribal members show a Tribal membership enrollment card at the MP Station and proceed to Range Control for access and a safety briefing; members who have made advance arrangements may go directly to Range Control.

The Yakima Indians are encouraged to call Range Control beforehand to determine whether any access limitations exist. The Yakima Indian Nation shall establish a point of contact (POC) at the Nation's Headquarters for coordination of access by Tribal members; Range Control will be the Army's POC. The Army will provide access information to the POC regularly. Group events should be scheduled as far in advance as practicable to prevent conflict with training activities. Yakimas who are guests of the Wanapum people may accompany them at YTC under the provisions of the previous paragraph.

The Yakimas and Wanapums are welcome to utilize their traditional lands in traditional ways. Employees of YTC will receive them in that spirit. It is through our concern for the continued well-being of the Native American peoples that certain safety considerations are applied.

POC at Range Control is Mr. Reddick, 454-8220 and DPCA is Mr. Ken Cooper 454-8201.



EDWARD C. HORTON  
LTC, IN  
Commanding

DISTRIBUTION:  
B



## **APPENDIX FIVE: AGREEMENTS OR POLICIES SPECIFIC TO NATIVE GROUPS BUT NOT SPECIFIC TO NATIVE ACCESS ISSUES**

Formal agreements or policies specifically between military facilities and native groups that are not specific to native access issues exist at a few locations. Examples of these documents are provided here.

- 5.1 Memorandum of Understanding on Native American Human Skeletal Remains and Associated Artifacts Among the Naval Air Station, Fallon, Fallon Paiute-Shoshone Tribes, Nevada State Historic Preservation Officer, U.S. Fish and Wildlife Service, and Nevada State Museum
- 5.2 Memorandum of Agreement between Vandenberg Air Force Base, the Santa Ynez Band of Mission Indians, and the Elders Council

Other agreements and policies have been formulated to deal specifically with archaeological, historical, and cultural resources as required by federal laws. A few of these agreements incorporate specific native groups through stated consultation relationships. Examples of these documents are also provided in this appendix.

- 5.3 Memorandum of Agreement between St. Louis District U.S. Army Corps of Engineers (USACE) and Naval Air Weapons Station, China Lake, California
- 5.4 Memorandum of Agreement between the Department of the Army, The Advisory Council on Historic Preservation, and the New Mexico State Historic Preservation Officer concerning closure and disposal of Fort Wingate Depot Activity, New Mexico
- 5.5 Memorandum of Agreement between the Department of the Army, the Advisory Council on Historic Preservation, and the Arizona State Historic Preservation Officer regarding realignment of activities to Yuma Proving Ground, Arizona
- 5.6 Memorandum of Agreement between the Department of the Army and the Arizona State Historic Preservation Officer Concerning Closure of the Navaio Army Depot Activity

MEMORANDUM OF UNDERSTANDING  
ON NATIVE AMERICAN HUMAN SKELETAL REMAINS  
AND ASSOCIATED ARTIFACTS

AMONG THE

NAVAL AIR STATION, FALLON

FALLON PAIUTE-SHOSHONE TRIBES,

NEVADA STATE HISTORIC PRESERVATION OFFICER,

U.S. FISH AND WILDLIFE SERVICE,

AND

NEVADA STATE MUSEUM

WHEREAS, the Department of the Navy (Navy) is responsible for the identification, evaluation and protection of historic and archeological properties, including human skeletal remains, associated and unassociated funerary objects, and cultural patrimony on lands under its ownership and control in Churchill County, Nevada pursuant to the National Historic Preservation Act of 1966, as amended, associated laws and regulations;

WHEREAS, Native American human skeletal remains can have emotional and spiritual significance for those who may be genetic or cultural descendants of the deceased represented by the remains;

WHEREAS, the members of the Fallon Paiute-Shoshone Tribes may be genetic and/or cultural descendants of the deceased Native Americans whose skeletal remains may be found in the Lahontan Valley, Churchill County, Nevada;

WHEREAS, Native American human skeletal remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony of the Fallon Paiute-Shoshone Tribes recovered from the aforesaid lands in the Lahontan Valley are the property of the Fallon Paiute-Shoshone Tribes, pursuant to Section 3, Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3002);

WHEREAS, Native American human skeletal remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony of the Fallon Paiute-Shoshone Tribes may have scientific value with the potential to contribute important information to the disciplines of archeology, physical and cultural anthropology, genetics and medicine in a manner that can improve the quality of life and enrich our understanding of human society;

Memorandum of Understanding  
Native American Burials  
Naval Air Station, Fallon  
Page 2

WHEREAS, appropriate treatment of Native American human skeletal remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony of the Fallon Paiute-Shoshone Tribes requires a responsible balance between 1) respect for the deceased, 2) respect for the feelings of the genetic and cultural descendants, and 3) the interest of science;

WHEREAS, the U.S. Fish and Wildlife Service (FWS) has constructed a facility within the Stillwater National Wildlife Refuge, northeast of Fallon, Nevada, for the reinterment of Native American human skeletal remains and associated and unassociated funerary objects of the Fallon Paiute-Shoshone Tribes discovered in the Lahontan Valley and has offered the use of this facility to the Navy;

WHEREAS, the Nevada State Museum maintains the facilities to scientifically study and properly store human skeletal remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony of the Fallon Paiute-Shoshone Tribes discovered in the State of Nevada and has agreed to curate such remains on an interim basis;

WHEREAS, pursuant to Nevada Revised Statutes (NRS) 277.180.(1) the Nevada State Museum and the Nevada Department of Conservation and Natural Resources, Division of Historic Preservation and Archeology, parties to this Memorandum of Understanding are public agencies empowered to contract with another public agency for the performance of any governmental service, activity or undertaking which these public agencies are authorized by law to perform under NRS 277.180(1);

WHEREAS, the Native American Graves Protection and Repatriation Act of 1990 (PL 101-601) authorizes Federal agencies and museums to enter into agreements with culturally affiliated tribes for the disposition of or control over Native American human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony; and

NOW, THEREFORE: the Navy, Fallon Paiute-Shoshone Tribes, Nevada State Historic Preservation Officer (SHPO), FWS, and Nevada State Museum agree that the following procedures shall be followed for the excavation, treatment, study, reinterment, and reporting on all Native American human skeletal remains, associated and unassociated funerary objects, sacred objects, and cultural patrimony of the Fallon Paiute-Shoshone Tribes found on those lands in the Lahontan Valley, Churchill County, Nevada that are owned or controlled by NAS Fallon.

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**1. EXCAVATION AND REMOVAL OF NATIVE AMERICAN HUMAN SKELETAL REMAINS, ASSOCIATED AND UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY OF THE FALLON PAIUTE-SHOSHONE TRIBES**

A. With respect to this Memorandum of Understanding (MOU) the term "burials" shall be defined as any Native American human skeletal remains and associated and unassociated funerary objects of the Fallon Paiute-Shoshone Tribes.

B. Should sacred objects or items of cultural patrimony be found on land owned or controlled by the Navy in the Lahontan Valley, Churchill County, Nevada, the Navy will report the discovery to the other signatories of this agreement and immediately initiate consultation with them on the proper disposition of such remains.

C. Whenever possible burials discovered on lands owned or controlled by the Navy at NAS Fallon shall be protected and preserved in place without further disturbance.

D. In the following situations it shall be appropriate for the Navy to ensure protection of a burial through excavation and removal:

i. an isolated burial found on the surface, having been displaced from its original resting place by natural or other processes;

ii. an in situ (in its original location) burial that has had 50% or more of the remaining skeletal material exposed by the forces of nature, vandalism, or other means;

iii. an in situ burial that has had less than 50% of the remaining skeletal material exposed, when it is threatened by vandalism, construction, erosion, or deterioration and cannot otherwise be protected by reburial in place with sterile soil or other suitable material.

E. An in situ burial discovered during the course of a permitted archeological investigation under the Archeological Resources Protection Act (ARPA) or by an archeological data recovery program resulting from actions taken to comply with Section 106 of the National Historic Preservation Act shall be left intact and covered with an appropriate soil matrix to protect the site, unless:

i. the site is threatened by vandalism, construction,

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erosion or deterioration and cannot be protected by reburial in place; or

ii. contrary provisions addressing the treatment of a Native American burial are contained in the ARPA permit or research design prepared in compliance with Section 106.

F. Isolated human skeletal remains not found in association with a burial shall be collected by the Navy and treated with respect until they can be reinterred in accordance with the procedures established by this agreement.

G. The excavation and removal of burials and isolated human skeletal remains as described above (1.C. through 1.E.) shall be undertaken in accordance with the standards for archeological data recovery detailed in "Treatment of Archeological Properties: A Handbook" (Advisory Council on Historic Preservation [ACHP], 1980) and "Archeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines," Federal Register, Vol. 48. No 190, pp 44716-44742, or as they may be amended.

## 2. TREATMENT OF NATIVE AMERICAN BURIALS

A. All excavated Native American burials and collected Native American human skeletal remains shall be temporarily curated at the Nevada State Museum until they can be reinterred in the FWS facility on the Stillwater National Wildlife Refuge in accordance with the Memorandum of Understanding on Human Remains between the FWS, Nevada State Historic Preservation Officer and the Fallon Paiute-Shoshone Tribes executed in October 1988.

B. No excavated Native American burials or collected human skeletal remains shall be displayed in public.

C. Prior to reinterment, scientific analysis may be conducted on the Native American burials and collected Native American human skeletal remains by qualified individuals using an appropriate research design approved by the Nevada SHPO and the Fallon Paiute-Shoshone Tribal Council, and under the supervision of the Curator of Anthropology of the Nevada State Museum.

D. Whenever possible all analysis shall be conducted within the security of the Nevada State Museum.

E. No element of a Native American burial or piece of Native American human skeletal material shall be removed from the Nevada State Museum for analysis without the written approval of the Chairman of the Fallon Paiute-Shoshone Tribes, and then only for the purposes of conducting an analysis requiring equipment or

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facilities not available at the Nevada State Museum.

F. Appendix I identifies the types of non-destructive observational analyses and the types of destructive evaluations that may be performed. However, destructive analysis shall be limited to fragmentary specimens of bone and then only with the approval of the Chairman of the Fallon Paiute-Shoshone Tribes.

G. No complete human bone shall be altered, damaged or destroyed for scientific analysis.

H. Any reasonable expenses incurred by the Nevada State Museum for analysis and curation of Native American burials and any fragment of Native American human skeletal remains collected on lands in the Lahontan Valley, Churchill County, Nevada owned or controlled by the Navy will be paid for by the Navy in accordance with a separate agreement to be negotiated between the Navy and the Nevada State Museum within six (6) months of the execution of this Memorandum of Understanding.

### 3. REINTERMENT

A. Any Native American burial or fragment of Native American human skeletal remains shall be reinterred at the facility constructed for this purpose at the Stillwater National Wildlife Refuge.

B. Reinterment shall be coordinated by the FWS in accordance with its schedule for opening the facility of the Stillwater National Wildlife Refuge.

C. All reasonable expenses incurred by the FWS for reinterment of Native American burials discovered on lands owned or controlled by the Navy will be paid for by the Navy on a negotiated basis prior to reinterment.

D. To the extent possible the location of the reinterment facility shall be kept confidential and the FWS will monitor and maintain the structural integrity of the facility, as well as provide security against unauthorized tampering with the facility or its contents.

F. Native American burials and Native American human skeletal fragments that have been reinterred in the FWS facility may be removed temporarily, for scientific study, with application to the FWS under the following conditions:

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i. the proposed study must clearly demonstrate that it will subsequently improve our scientific understanding of prehistoric occupation of the Lahontan Valley and it must be demonstrated that reinterred material is critical to the study;

ii. a list of the specific items to be removed and studied must be supplied in advance;

iii. evidence must be provided in advance demonstrating that the study is properly funded and <sup>that</sup> its findings will be published in a timely manner; (S)

iv. the proposed study has been given a favorable recommendation by the FWS Scientific Review Committee, the Manager of the Stillwater National Wildlife Refuge, the Nevada SHPO, the Nevada State Museum and must be approved by the Fallon Paiute-Shoshone Tribal Council.

#### 4. REPORTING AND MONITORING

A. The Navy shall immediately inform and initiate consultation with all the signatories to this MOU and the appropriate representative of the Secretary of the Interior to ensure that, when any Native American burial or Native American human skeletal remains found on the land owned or controlled by the Navy in the Lahontan Valley, Churchill County, Nevada, are discovered, they shall be treated expeditiously in accordance with the conditions of this agreement and avoid unnecessary project delay.

B. The Navy shall consult with the Fallon Paiute-Shoshone Tribal Chairman prior to initiating any excavation of archeological material resulting from consultation with the ACHP and the SHPO, pursuant to Section 106 of the National Historic Preservation Act, or the result of a permit issued in accordance with the Archeological Resources Protection Act of 1979 that may encounter Native American burials.

C. The Navy shall provide to the Fallon Paiute-Shoshone Tribal Council copies of all scientific reports and publications resulting from the analysis and study of any Native American burials or fragments of skeletal material recovered from lands owned or controlled by NAS Fallon in the Lahontan Valley, Churchill County, Nevada and commissioned by the Navy. Included with each report the Navy will provide a summary written in non-technical language with appropriate graphics.

D. The Fallon Paiute-Shoshone Tribal Chairman shall provide

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the Navy with a monitor to oversee the recovery of any Native American burial discovered on lands owned or controlled by NAS Fallon, if the Tribal Council believes it should be represented on site during the recovery effort.

E. The Navy shall provide the Fallon Paiute-Shoshone Tribal Chairman, or official representative of the Tribal Chairman, access to Native American burial sites on lands owned and controlled by the NAS Fallon in the Lahontan Valley, Churchill County, Nevada for the purpose of inspecting the condition of these sites, upon sufficient notice to schedule the visit at a time convenient to the Tribal Chairman and provided it does not create a safety or security conflict for the Navy.

#### 5. DISPUTE RESOLUTION

A. Should any party to this MOU determine that some portion of the agreement cannot be met, is not being met or believes a change is necessary, that party shall immediately notify the other parties to this MOU in writing and request the parties consult to consider an amendment or addendum to this agreement which would ensure full compliance. Such amendment or addendum shall be executed in the same manner as the original MOU.

B. Should any party to this MOU be unable to maintain a level of effort sufficient to carry out the terms of this agreement, that party shall notify the other parties and seek an amendment or an addendum to this MOU.

#### 6. TERMINATION

A. This agreement shall be effective from the first (1) day of July, 1991 and shall continue in full force and effect until the thirtieth (30) day of June, 1996 unless extended, modified or terminated by mutual consensus of the parties.

#### 7. CONTACT PERSONS

A. For purposes of this MOU the contact person for each of the parties shall be as follows:

i. for the Navy: Public Works Officer, Naval Air Station, Fallon, Nevada (702) 426-2712

ii. for the FWS: Refuge Manager, Stillwater National Wildlife Refuge, Fallon, Nevada (702) 423-5128

iii. for the Fallon Paiute-Shoshone Tribes, Tribal Chairman, Fallon, Nevada (702) 423-6075



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## APPENDIX I

### ANALYSIS OF HUMAN REMAINS

The following kinds of analyses may be carried out with the Native American human skeletal remains found on land owned or controlled by NAS Fallon in the Lahontan Valley, Churchill County, Nevada, if funds and time permit before they are reinterred. As a part of the exhumation and initial analysis the Navy will assure that a catalog card is filled out and numbered consecutively for each individual recovered regardless of whether it is a child, adult, complete skeleton or only a fragment of bone. Recorded on the card will be the following information obtained from observation: age, sex, list of bones found, pathologies, anomalies, dental information, and any archeological associations, including artifacts, relative position of the bones and of any artifacts found. A sketch of the bone(s) and related artifacts as they were found in situ should be attached to the catalog card.

Detailed analysis as listed below may be undertaken at no cost to the Navy, unless agreed to and funded by the Navy prior to initiating such studies.

#### Observational / Non-destructive Analysis

1. Complete anthropometric record of the cranial and post cranial data, including the various angles of the face and mandible.
2. Full record of anthroposcopic data, involving continuous morphological observations, discrete morphological traits and observations of all anomalous conditions on the cranial, post cranial skeleton and the dentition.
3. Notation of age and sex, indicating the basis on which these were determined; and estimate stature from the long bone measurements.
4. Full descriptive record of pathological occurrences cranially, post cranially and on the dentation (including wear, cusp patterns and anomalies).
5. Photographs of all crania from facial, right and left lateral, occipital, fronto-parietal and basal views. Photographs of the mandible from all possible views separately, and close-ups of dental anomalies or pathologies. Photographs of any post cranial

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anomalies or pathologies.

6. Radiographs of proximal and distal shafts of all long bones (fragmentary or complete) for evidence of growth arrest lines. Pathologies may be X-rayed also.

7. Consider making molds of either special crania, or of representative types of crania if there are a large series, so casts can be reproduced.

8. Estimate the occlusal surfaces of all adult teeth in the mandible or maxilla.

9. Special dental traits that are under possible genetic control.

#### **Destructive Analysis**

Destructive analysis, regardless of funding, may be conducted only with written permission of the Fallon Paiute-Shoshone Tribes and then only on fragmentary remains, not whole bones.

1. Bone samples from vertebral centra, plus dirt samples from the body cavity of that individual, may be collected for possible paleoserological analysis of the ABO blood groups.

2. Bone samples may be submitted for radio-carbon dating and C14/C13 fractionation.

3. Bone core samples from the compact shaft of the femora and tibiae may be submitted for analysis of osteon counts.

4. Trace elements analysis, using rib or other bone fragments, may be conducted on both human and mammal bone from the same locale to obtain comparative data.

5. Bone samples may be submitted for electrophoresis, to identify specific proteins under possible genetic control.

The purposes for studying human skeletal material are to answer such varied questions as:

1. Genetic relationships, health, disease, malnutrition, evidence of trauma and the changing biomechanics of these people through time. From observations of dental wear patterns, cultural behaviors can be determined, including the use of teeth in the manufacture of artifacts.

2. From the age and sex data, mortality curves are derived,

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giving information on the demography of these people. With radiocarbon dating, comparisons can be made of mortality curves at differing time periods.

3. Discrete morphological traits and dental anomalies are useful in answering problems of migration, influx of new groups, and even evidence of endogamous or exogamous mating patterns.

4. Data on growth arrest lines, hypoplasia of the teeth, pathologies and evidence of trauma can add to the picture of these people, since analysis of these characteristics results in morbidity curves. Also with radiocarbon dating, higher morbidity might be correlated with seasonal changes or cultural difficulties or even contact with other peoples.

MEMORANDUM OF AGREEMENT BETWEEN  
VANDENBERG AIR FORCE BASE,  
THE SANTA YNEZ BAND OF MISSION INDIANS,  
AND  
THE ELDERS COUNCIL

I. THE PARTIES: The parties to this agreement are Vandenberg Air Force Base (VAFB) and the Santa Ynez Reservation (SYR). VAFB is the owner and occupant of the property subject to this agreement. The SYR is the federally recognized representative of the Santa Ynez Band of Mission Indians with a Chumash tribal affiliation.

II. STATEMENT OF NEED: Native American and other human remains (remains) are continually uncovered at various sites on VAFB due to construction activities and wind and water erosion. These sites are accessible to most personnel authorized access to VAFB and are used for recreational purposes. Consequently, exposed remains are subject to damage, destruction and/or vandalism if they are not properly protected.

III. STATEMENT OF PURPOSE: The purpose of this agreement is to ensure that discovered remains are properly protected, identified and reburied in compliance with applicable federal laws. The agreement will also provide a consistent mechanism for both VAFB and the SYR to facilitate this process in a way that is sensitive to the needs of the SYR and VAFB.

IV. STATEMENT OF AGREEMENT BY VAFB:

A. When remains are discovered on VAFB, personnel in the Directorate of Environmental Management, Historical and Cultural Resources Division (WSMC/ETH or its successors), shall ensure the remains are recovered and identified, using the expertise of Dr. Phil Walker, Physical Anthropologist, University of California at Santa Barbara (UCSB) (or successors or mutually agreeable substitute).

B. When the remains are identified as Native American, WSMC/ETH shall notify the Chairman (or designee) of the Santa Ynez Band of Mission Indians, SYR, of the discovery, and the State Historic Preservation Officer (SHPO).

C. On a case-by-case basis, VAFB and the SYR will jointly determine where remains identified under paragraph IVB above shall be reburied on VAFB property. Reburial sites will be selected with a strong preference for reburial near the site of discovery. Reburial shall not occur within construction areas, in identified archaeological or cultural resource sites, or in areas that may interfere with VAFB's national security or military missions.

D. VAFB shall keep such records of the discovery and reburial sites as may be required, including but not limited to ethnic certifications and shall make such records available to the SYR and other authorized parties.

V. STATEMENT OF AGREEMENT BY THE SYR:

A. When notified of the identification of Native American remains requiring reburial, the SYR agrees to jointly determine where remains identified pursuant to paragraph IVB above shall be reburied on VAFB property. Reburial sites will be selected with a strong preference for reburial near the site of discovery. Reburial shall not occur within construction areas, in identified archaeological or cultural resource sites, or in areas that may interfere with VAFB's national security or military missions.

B. The SYR agrees to rebury any identified Native American remains at no expense to the United States Air Force (USAF) or VAFB. The SYR expressly recognizes that neither the USAF or VAFB shall in any way fund reburial. This provision shall not be interpreted to nullify or contradict Air Force contract provisions requiring contractors to employ and reimburse Native Americans for oversight or monitoring activities.

VI. DURATION OF AGREEMENT: The parties agree that this agreement shall remain in effect for as long as is necessary to accomplish its purposes.

VII. CANCELLATION: Either party may terminate this agreement with 30 days advance written notification.

VIII. ACCESS: VAFB agrees to provide reasonable access for the SYR to carry out its obligations under this agreement, subject to national security and military mission requirements. Requests for access shall be accommodated through WSMC/ETH.

IX. STATEMENT OF AUTHORITY: VAFB enters this agreement pursuant to the following: The National Historic Preservation Act, 16 U.S.C. Section 470; The Antiquities Act, 16 U.S.C. Section 469; The Archaeological Resources Protection Act, 16 U.S.C. Section 470aa-11; The National Environmental Policy Act, 42 U.S.C. Section 4231; The Historic Sites Act, 49 Stat. 666; The Archaeological and Historic Preservation Act, 16 U.S.C. Section 469; The American Indian Religious Freedom Act, 42 U.S.C. Section 1996; and Executive Order 11593 (May 13, 1971). The SYR enters this agreement pursuant to The Indian Reorganization Act, 25 U.S.C. Section 461 and its Articles of Association, February 7, 1964.

X. SEVERABILITY: If any of the provisions of this agreement are found by a court of law to be invalid or of no force or effect, the validity of all other provisions shall be unaffected.

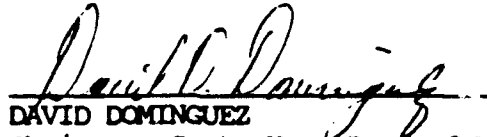
XI. AMENDMENT: Except as expressly provided in this agreement, no changes in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on either of the parties.

XII. FUNDING:

A. By entering into this agreement, VAFB is not in any way obligating expenditure of funds. Any VAFB activities necessary for accomplishing the purposes of this agreement are subject to the availability of authorized and appropriated funds.

B. By entering into this agreement, the SYR is committing to expend funds as necessary to accomplish its obligations under this agreement.

XIII. SIGNATURES:



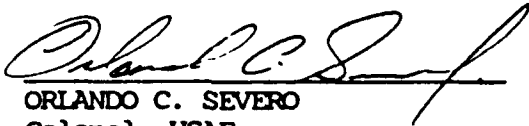
DAVID DOMINGUEZ  
Chairman, Santa Ynez Band of Mission Indians  
Santa Ynez Reservation

8-20-91  
(Date)



GEORGE ARMENTA  
Chairman, Elders Council  
Santa Ynez Reservation

8-20-91  
(Date)



ORLANDO C. SEVERO  
Colonel, USAF  
Commander  
Western Space and Missile Center  
Vandenberg AFB, CA

8-20-91  
(Date)



MEMORANDUM OF AGREEMENT  
BETWEEN  
ST. LOUIS DISTRICT  
U.S. ARMY CORPS OF ENGINEERS (USACE)  
AND  
NAVAL AIR WEAPONS STATION  
CHINA LAKE, CALIFORNIA

1. General. The Naval Air Weapons Station (NAWS), China Lake requires qualified technical support to inventory and evaluate federally owned and administered archaeological collections. These inventory and evaluation efforts are required under authority provided in Public Law 89-664, National Historic Preservation Act of 1966, as amended; Public Law 96-95, Archaeological Resources Protection Act of 1979; Public Law 101-601, Native American Graves Protection and Repatriation Act of 1990; 36 CFR Parts 66, 68 and 79; and 32 CFR Part 229. St. Louis District, U.S. Army Corps of Engineers has been designated a Corps-Wide Center of Expertise for Curation of Archaeological Collections. Utilization of St. Louis District expertise by the NAWS, China Lake will allow NAWS, China Lake to meet federally mandated completion dates relative to the Native American Graves Protection and Repatriation Act of 1990.

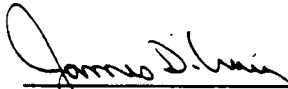
2. Purpose. The purpose of this Memorandum of Agreement is to obtain for the NAWS, China Lake needed archaeological curation and collections management technical support from the St. Louis District, USACE.

3. Statement of Work. The St. Louis District will provide technical assistance in accomplishing curation of archaeological collections as outlined in the attached Implementation Plan, Exhibit A incorporated herein by reference.

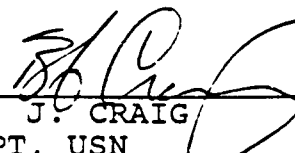
4. Resources. To facilitate execution of this assignment, NAWS, China Lake will provide to the Corps of Engineers, St. Louis District sufficient obligational authority to cover anticipated work. Within thirty (30) calendar days following the initial conference meeting and within every forty-five (45) day period thereafter, progress reports shall be submitted to NAWS, China Lake by the Corps of Engineers. These reports will contain details of work accomplished and expenditures to date. Each month the Corps of Engineers will bill the NAWS, China Lake for expenditures incurred.

5. Termination. The Naval Air Weapons Station, China Lake may terminate this agreement at any time by giving thirty (30) days written notice to St. Louis District, Corps of Engineers. Upon receipt of the notice, the St. Louis District, Corps of Engineers shall (1) immediately discontinue all services affected (unless the notice directs otherwise), (2) within thirty (30) days deliver to the Naval Air Weapons Station, China Lake all data, drawings, summaries, reports or other information and materials accumulated in performing this work, whether completed or in process, and (3) within forty-five (45) days return all remaining funds to the Naval Air Weapons Station, China Lake.

CONCUR:

  
\_\_\_\_\_  
JAMES D. CRAIG  
COL, EN  
Commanding  
St. Louis District, Corps of Engineers

17 Sep 92  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
B. J. CRAIG  
CPT, USN  
Commanding Officer  
Naval Air Weapons Station  
China Lake, California

21 Sep 92  
\_\_\_\_\_  
Date

## **MEMORANDUM OF AGREEMENT**

### **BETWEEN THE DEPARTMENT OF THE ARMY, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE NEW MEXICO STATE HISTORIC PRESERVATION OFFICER CONCERNING CLOSURE AND DISPOSAL OF FORT WINGATE DEPOT ACTIVITY, NEW MEXICO**

**WHEREAS** the United States Department of the Army (Army) has determined that the closure and disposal of Fort Wingate Depot Activity (Fort Wingate), New Mexico may have adverse effects on properties that are eligible for inclusion in the National Register of Historic Places (historic properties), and has consulted with the New Mexico State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 et. seq. (the Act), its implementing regulations (36 CFR Part 800), and the Programmatic Agreement (PA) among the Army, the Council, and the National Conference of State Historic Preservation Officers executed 05 February 1990; and

**WHEREAS** the Bureau of Land Management, the Navajo Nation, the Zuni Tribe, and the Re-use Committee for Fort Wingate have participated in the consultation, and have been invited to concur in this Memorandum of Agreement (MOA); and

**WHEREAS**, because the Fenced-up Horse Canyon site complex (LA16279) is associated with the prehistoric Chacoan culture of the San Juan Basin, and in view of the special responsibilities assumed by the National Park Service for the management of such properties under Public Law 96-550, the National Park Service has participated in the consultation, and has been invited to concur in this MOA; and

**WHEREAS** pursuant to Stipulation VI.E of the PA, the consulting parties have agreed that because the precise nature and schedule of activities associated with the closure, environmental restoration, and disposal of Fort Wingate are uncertain, and because the effects of such activities are likely to affect properties whose treatment or management will require the application of routine procedures, it is appropriate for the Army in this MOA to set forth processes for the identification, evaluation, treatment and management of historic properties in lieu of identifying such properties and establishing specific treatment or management plans for them prior to closure;

**WHEREAS** the consulting parties have considered the applicable requirements of the Act, the American Indian Religious Freedom Act, 42 U.S.C. 1996 et. seq. (AIRFA) and the Archeological Resources Protection Act, 16 U.S.C. 470aa et. seq. (ARPA) in the course of consultation;

**NOW, THEREFORE**, it is mutually agreed that the following stipulations will be adhered to in order to take into account the effect of the Project on historic properties in accordance with the Act, AIRFA, and ARPA.

#### **Stipulations**

The Army will ensure that the following stipulations are implemented:

##### **I. Transfers to Other Federal Agencies**

A. Notwithstanding any other provision of this MOA, it is understood that should the Army transfer any portion of Fort Wingate to another Federal agency for conservation purposes, such as for use as a wildlife refuge or park, or as public lands subject to multiple use management, the Army need not identify, evaluate, or plan for the management of historic properties in accordance with the following

stipulations within such portion of Fort Wingate, except to the extent required to address the effects of environmental hazard remediation pursuant to Stipulation III.A-D, but will provide to the receiving agency all available information on known historic properties and areas where historic properties are likely to occur, so that the receiving agency can use such information in its own compliance with the Act, AIRFA and ARPA.

B. Notwithstanding any other provision of this MOA, it is understood that should the Army transfer any portion of Fort Wingate to another Federal agency for other than conservation purposes or as lands subject to multiple use management, the parties to this MOA and the receiving agency will consult to determine what actions, if any, may be necessary to preserve historic properties subject to effect by such transfer, and will amend this MOA or take other actions in accordance with 36 CFR 800 to the extent needed to specify how such actions, if any, will be implemented.

## **II. The Fenced-up Horse Canyon Site Complex**

A. It is mutually understood that the Fenced-up Horse Canyon site complex (LA16279) is a property of extreme significance to the understanding and appreciation of prehistory in the area. In view of this fact, the Army will:

1. Establish clear and defensible boundaries for LA16279, based on surface inspection and subsurface testing, to include all evidence of prehistoric human activity plus a reasonable buffer zone; and

2. Act on the expressed desire of the Bureau of Land Management and ensure that LA16279, as defined pursuant to Stipulation II.A.1, is placed under the management control of that agency to preserve it in a manner consistent with the intent of Public Law 96-550; and

3. Request the Bureau of Land Management to ensure that a preservation and use plan for the site is developed within two years.

B. Should it not be feasible to transfer the property subject to Stipulation II.A., the Army, the National Park Service, the New Mexico SHPO, and the Council will consult further with the Navajo Nation, Zuni Tribe and/or with other persons they deem appropriate, to determine what actions to take to ensure appropriate preservation of LA16279. Any revision to this MOA will be recorded in accordance with Stipulation IX.

## **III. Other Historic Properties**

A. In developing its Remedial Investigation/Feasibility Study (RI/FS) of unexploded ordnance (UXO) and other environmental hazards at Fort Wingate, the Army in consultation with the SHPO will identify on maps to be used in the RI/FS and covering all real property subject to disposal:

1. Lands on which historic properties have been reported in the past; and

2. Lands where historic properties are likely to occur based on review of background data on the history, prehistory, ethnography, and natural environment of Fort Wingate and its vicinity.

3. Lands where historic properties are not likely to occur because of past land disturbance or other factors;

4. Lands where data are insufficient to permit predictions about the likelihood that historic properties occur; and

5. Lands where special approaches to identification of historic properties are appropriate because of possible unexploded ordnance or other hazards.

B. The SHPO, Navajo Nation, and Zuni Tribe will be afforded thirty (30) days to review the completed maps in draft form and to provide comments; the Army will take comments into account in finalizing the maps.

C. The Army will ensure that, using the maps prepared in accordance with Stipulation III.A, personnel conducting the RI/FS:

1. Are familiarized with the need to exercise care during conduct of the RI/FS in order to minimize damage to historic properties;

2. Have access to personnel trained in archeological field work when working in such areas;

3. Conduct work in such areas, and develop recommendations for environmental remediation with respect to such areas, in a manner that balances the needs of the RI/FS against:

- a. The need to minimize damage to any historic properties that may be affected, and

- b. The desirability of obtaining field data to define the character of such sites.

D. As the RI/FS proceeds, the Army in consultation with the SHPO, the Navajo Nation, and the Zuni Tribe, will:

1. Conduct an intensive survey, as defined in the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and in accordance with applicable National Park Service, SHPO, Navajo Nation, and Zuni Tribe guidelines, of all areas identified pursuant to stipulations III.A.1, 2, and 4, coordinated with the RI/FS in accordance with Stipulation III.C.

2. Conduct a reconnaissance survey, as defined in the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and in accordance with applicable SHPO guidelines, of areas identified pursuant to Stipulation III.A.3, coordinated with the RI/FS in accordance with Stipulation III.C;

3. Establish special survey methods for use in areas identified pursuant to Stipulation III.A.5, and apply such methods in coordination with the RI/FS in accordance with Stipulation III.C.;

4. Ensure that the surveys seek to identify historic and prehistoric sites, and traditional cultural properties as defined in National Register Bulletin 38 (National Park Service 1990), historic structures, and cultural landscapes; and

5. Evaluate the eligibility of known and newly identified historic and prehistoric archeological sites, traditional cultural properties, structures, and landscapes for inclusion in the National Register of Historic Places (Register), in a manner consistent with 36 CFR 800.4(c) and pertinent guidelines of the National Park Service, Council, and SHPO.

E. The Army will provide progress reports and a final report to the SHPO, Navajo Nation, and Zuni Tribe on its actions carried out pursuant to Stipulation III.C and D, and will refine the maps prepared pursuant to stipulations III.A and B in consultation with the SHPO, Navajo Nation, and Zuni Tribe to take into account the results of field work conducted pursuant to stipulations III.C and D. Where such refinements result in adjustments to the boundaries of lands originally identified as those where historic properties are likely to occur, the Army may adjust its survey methods accordingly.

F. If properties at Fort Wingate are determined eligible for inclusion in the Register pursuant to Stipulation III.D, the Army will give every lawful consideration to the transfer of the real property containing such properties to a party that will preserve them in a manner consistent with applicable standards of the National Park Service, the Council, the SHPO, the Navajo Nation, and the Zuni Tribe. If the Army proposes to transfer to a non-federal entity real property at Fort Wingate that contains one or

more properties determined eligible for inclusion in the Register pursuant to Stipulation III.D.5, the Army will undertake such transfer in consultation with the SHPO, the Navajo Nation, and the Zuni Tribe, and in accordance with the following standards:

1. Archeological sites associated with the prehistoric Chacoan culture as determined by reference to the Chaco Protection Site System Joint Management Plan or determined eligible for listing on the Register because of significance in addition to the scientific information they contain, will be identified in the transfer documents and made the subject of the preservation condition set forth in Attachment A; which will be included in the transfer instrument pertaining to the real property containing the site and recorded in the real estate records of McKinley County, State of New Mexico for the transfer of such real property;

2. Other archeological historic properties will be treated as described in sub-paragraphs a. and b. The selection of the appropriate option depends both on the nature and circumstances of the transfer, and the nature of the property's significance. Therefore, the Army will select an option in consultation with the SHPO. Objection to the Army decision shall be resolved as specified in Stipulation X.A. The treatment options are that properties will be:

- a. Subjected to archeological data recovery prior to transfer, in accordance with a scope of work developed in consultation with the SHPO, Indian tribes, and other interested parties, and meeting the standards set forth in Attachment B; or

- b. Identified in the transfer documents and made the subject of the condition set forth in Attachment C, which will be included in the transfer instrument pertaining to the real property containing the site and recorded in the real estate records of McKinley County, State of New Mexico for the transfer of such real property.

- c. When the effects to an archeological property will be mitigated or negated through either a. or b. above, and the effects of the Base Realignment and Closure activity are found to be not adverse as per 36 CFR 800.9 (c), the Army need not request Council comment on the determination, but may instead proceed with the mitigation.

3. Should any standing structures or ruins thereof be determined eligible for inclusion in the National Register pursuant to Stipulation III.D.5., the Army will consult further with the SHPO, any group that may ascribe significance to the structure or ruin, and the Council in accordance with 36 CFR 800.5(e). If the structure or ruin is not eligible, the Army may transfer such property without preservation conditions or data recovery.

4. Should any traditional cultural property or cultural landscape of value to an Indian tribe or other social group be determined eligible for inclusion in the National Register pursuant to Stipulation III.D.5., the Army will consult further with the SHPO, the Council, and the Indian tribe(s) or others who ascribe value to the property, in accordance with 36 CFR 800.5(e), giving particular attention to the requirements of the American Indian Religious Freedom Act if applicable. If the property is not eligible, the Army may transfer such property without consultation with the Council and SHPO, but will consult further with the applicable Indian tribe and take such actions as are feasible and prudent to advance the purposes of the American Indian Religious Freedom Act.

5. If the Army and the SHPO are unable to agree on the National Register eligibility of an archeological, architectural or cultural resource, the Keeper of the National Register shall make a final determination concerning whether the resource is an historic property, pursuant to 36 CFR 800.4(c)(4).

- G. If the Army proposes to transfer to a non-federal entity any archeological site or other possible historic property that has not yet been evaluated in accordance with Stipulation III.D.5., the Army will ensure that it is so evaluated. If the property is eligible for inclusion in the Register, the Army will comply with Stipulation III.F. with respect to such property. If the property is not eligible on its own merits or as a

member of a National Register of Historic Places District, the Army may transfer such property without further consideration.

H. The Army shall provide results of its Remedial Investigation/Feasibility Study (RI/FS) to agreement parties for a 30-day review. The study results will clearly state where, because of risks to human health and the environment, remediation requirements will override historic preservation concerns. Objection to RI/FS study results will be resolved as specified in Stipulation X.A.

**IV. Public Interpretation and Curation Facility.** In assessing disposal options for Fort Wingate, the Army will give serious consideration to options that provide for public interpretation of Fort Wingate's historic properties and to use of Fort Wingate facilities for the care and curation of archeological and other materials.

**V. Interim Protection of Historic Properties**

A. While the property remains in Army ownership, the Army will comply with 36 CFR 800 with respect to any undertaking it proposes to carry out at Fort Wingate Depot Activity, except as provided in the paragraph below.

B. Programs and activities under the Fort Wingate Natural Resource Management Program shall be exempted from coordination requirements unless these programs and activities should require construction of new facilities, or disturbance of previously undisturbed surfaces. Any undertakings that involve construction or disturbance of previously undisturbed surfaces shall be subject to coordination pursuant to 36 CFR 800.

**VI. Reporting.** The Army shall ensure that reports on all activities carried out pursuant to this agreement are provided to the parties signing this Agreement, insofar as such disclosure is not in violation of the Archeological Resources Protection Act (ARPA) of 1979, (16 U.S.C. Section 470 hh).

**VII. Qualification of Personnel.** The Army shall ensure that all archeological surveys and historic property data recovery work pursuant to this agreement is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the requirements for Archeologist set forth at Appendix C-1 of Army Regulation 420-40, and that any studies of traditional cultural properties are carried out by or under the direct supervision of a person or persons trained in cultural anthropology at a minimum consistent with the requirements of Appendix C-6 of Army Regulation 420-40.

**VIII. Amendments.**

A. The parties to this agreement may amend the terms of this agreement, and the provisions of any attachment hereto, by signing the form provided as Attachment D.

B. The Army will ensure that any of the concurring parties to this MOA whose interests may be affected by an amendment are asked to concur in such amendment.

C. Upon execution of the amendment, each party will attach a copy of the fully executed form to that party's copy of this agreement, and will enter the amendment number and date on the upper-right-hand corner of the first page of this agreement.

**IX. Scheduled Consultation.** Twelve months after this agreement is executed and annually thereafter until Fort Wingate has been transferred in accordance with the terms of this agreement, the Army will invite the parties to this agreement to review implementation of its terms and determine whether revisions are needed. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR Part 800 to make such revisions.

## X. Dispute Resolution.

A. Should any party to this agreement object within 30 days to any plans or other documents provided by the Army or others for review pursuant to this agreement or to any actions proposed or initiated by the Army that may pertain to the terms of this agreement, the Army shall consult with the objecting party to resolve the objection. If the Army determines that the objection cannot be resolved, the Army shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

1. Provide the Army with recommendations, which the Army will take into account in reaching a final decision regarding the dispute; or

2. Notify the Army that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the Army in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

B. Any recommendation or comment provided by the Council pursuant to Stipulation X.A will be understood to pertain only to the subject of the dispute; the Army's responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

C. At any time during development of implementation plans for measures stipulated in this agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the Army shall take the objection into account and consult as needed with the objecting party, the SHPO, other pertinent parties, and the Council to resolve the objection.

Execution and implementation of this Memorandum of Agreement evidences that the Army has afforded the Council a reasonable opportunity to comment on the closure and disposal of Fort Wingate, and that the Army has taken into account the effects of the undertaking on historic properties.

### ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Robert D. Bush Date: June 19, 1991  
Executive Director

DEPARTMENT OF THE ARMY	
By: _____	Date: _____
Commander, Fort Wingate Depot Activity	
By: _____	Date: _____
Commander, Tooele Army Depot	



DEPARTMENT OF THE ARMY

By: David M Lee Date: 16 July 1991  
DAVID M. LEE  
Captain, USA  
Commander  
Fort Wingate Depot Activity

for By: Raymond C. Hunter Date: 7/16/91  
ROY R. WILLIS  
Colonel, USA  
Commander  
Tooele Army Depot

for By: Paul J. Miller Date: July 16, 1991  
HARRY G. KAREGEANNES  
Major General, USA  
Commanding General  
Depot System Command

for By: William B. McGrath Date: 16 July 91  
WILLIAM B. McGRATH  
Major General, USA  
Chief of Staff  
Army Materiel Command

By: Paul W. Johnson Date: 16 July 91  
PAUL W. JOHNSON  
Deputy Assistant Secretary of the Army  
for Installations and Housing

NEW MEXICO STATE HISTORIC PRESERVATION OFFICER

By: Lynne Sebastian Date: 7-16-91  
for Thomas W. Meriani, State Historic Preservation Officer

Concur:

BUREAU OF LAND MANAGEMENT

By: Larry L. Woodard Date: 7-16-91

NATIONAL PARK SERVICE

By: Ernest W. Ortega Date: 7/16/91

NAVAJO NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

ZUNI TRIBE

By: Robert E. Lewis Date: July 16, 1991

RE-USE COMMITTEE FOR FORT WINGATE

By: Quinn Salen Date: 7-16-91

**ATTACHMENT A:**

**PRESERVATION COVENANT FOR  
CHACOAN ANASAZI ARCHEOLOGICAL SITES**

In consideration of the conveyance of the real property that includes the [specify site name and number], located in the County of McKinley, State of New Mexico, which is more fully described as: [Insert legal description.], [Name of property recipient] hereby covenants on behalf of [himself/herself/itself], [his/her/its] heirs, successors, and assigns at all times to the National Park Service and the New Mexico State Historic Preservation Officer to maintain and preserve the site as follows:

1. [Name of recipient] shall maintain [specify site name and number] in the public interest as a part of the system of archeological sites representing the prehistoric Chacoan Anasazi culture, in consultation with the National Park Service, the Bureau of Land Management, the New Mexico State Historic Preservation Officer, the Navajo Nation, and the Zuni Tribe, and in accordance with the purposes and applicable provisions of Public Law 96-550 and any applicable standards and guidelines of the National Park Service, the New Mexico State Historic Preservation Officer, the Navajo Nation, and Zuni Tribe.

2. [Name of recipient] shall undertake or permit no disturbance of the ground surface or any other thing which would affect the physical integrity of [specify site name and number] without the express prior written permission of the National Park Service, in consultation with the SHPO, signed by a fully authorized representative thereof. Should the National Park Service require, as a condition of the granting of such permission, that the [name of recipient] conduct archeological data recovery operations or other activities designed to mitigate the adverse effect of the proposed activity on the [specify site name and number], the [name of recipient] shall at [his/her/its] own expense conduct such activities in accordance with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and such standards and guidelines as the National Park Service may specify, including but not limited to standards and guidelines for research design, conduct of field work, conduct of analysis, preparation and dissemination of reports, disposition of artifacts and other materials, consultation with Native American or other organizations, and reinterment of human remains.

3. [Name of recipient] shall prohibit any person from vandalizing or otherwise disturbing the [specify site name and number]. Should such disturbance occur in spite of such prohibition, [name of recipient] shall promptly report the same to the National Park Service and assist the National Park Service in apprehending and prosecuting those responsible for such disturbance, and shall repair the damage caused by such disturbance in consultation with the National Park Service.

4. The National Park Service and the New Mexico State Historic Preservation Officer shall be permitted at all reasonable times to inspect the [specify site name and number] in order to ascertain if the above conditions are being observed.

5. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the National Park Service and the New Mexico State Historic Preservation Officer will jointly determine the most effective means to remedy the violation, will take all feasible steps to remedy the violation in a timely manner, and may file suit to enjoin said violation or require restoration of the [specify site name and number]. The National Park Service and/or New Mexico State Historic Preservation Officer if successful shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

6. [Name of recipient] agrees that the National Park Service may at its discretion, without prior notice to [name of recipient], convey and assign all or part of its rights and responsibilities contained herein to a third party.

7. This covenant is binding on [name of recipient], [his/her/its] heirs, successors, and assigns in perpetuity. Restrictions, stipulations, and covenants contained herein shall be inserted by [name of

recipient] verbatim or by express reference in any deed or other legal instrument by which [he/she/it] divests [himself/herself/itself] of either the fee simple title or any other lesser estate in the [specify site name and number] or any part thereof.

8. The failure of the National Park Service and/or New Mexico State Historic Preservation Officer to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

This covenant shall be a binding servitude upon the real property that includes the [specify site name and number] and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that [name of recipient] agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.

## **ATTACHMENT B:**

### **DATA RECOVERY STANDARDS**

1. Archeological data recovery shall be carried out in accordance with a data recovery plan developed in consultation with the New Mexico SHPO and any Indian tribe(s) that ascribe cultural value to the site. The data recovery plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and pertinent standards and guidelines of the New Mexico SHPO, and shall take into account the Council's publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, [draft] 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan. The plan shall specify, at a minimum:

- a. The property, properties, or portions of properties where data recovery is to be carried out;
- b. Any property, properties, or portions of properties that will be transferred without data recovery, and the rationale for doing so;
- c. The research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- d. The field work methods to be used, with an explanation of their relevance to the research questions;
- e. The methods to be used in analysis, with an explanation of their relevance to the research questions;
- f. The methods to be used in data management and dissemination of data, including a schedule;
- g. The manner in which recovered materials will be disposed of, in a manner consistent with Federal law regarding disposition of archeological materials and recovered human remains;
- h. The manner in which field notes and other records of field work and analysis will be preserved and disposed of;
- i. The methods to be used to involve the interested public in the data recovery;
- j. The methods to be used in disseminating results of the work to the interested public;
- k. The methods by which any Indian tribe that ascribes cultural value to the site, and other parties with special interests in the property, if any, will be kept informed of the work and afforded the opportunity to participate; and
- l. The schedule for the submission of progress reports and final reports to the New Mexico SHPO and others.

2. Records of data recovery field work and analysis shall be retained in an archive or other curatorial facility approved by the New Mexico SHPO and disseminated as appropriate to facilitate research and management without unduly endangering historic properties.

3. Material recovered from data recovery projects shall be curated in accordance with 36 CFR Part 79, except that human remains and artifacts associated with graves shall be treated in conformance with the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990.

**ATTACHMENT C:  
STANDARD PRESERVATION COVENANT FOR ARCHEOLOGICAL SITES**

In consideration of the conveyance of the real property that includes the [name of archeological site] located in the County of McKinley, State of New Mexico, which is more fully described as: [Insert legal description.] [Name of property recipient] hereby covenants on behalf of [himself/herself/itself], [his/her/its] heirs, successors, and assigns at all times to the [name of agency or organization] and the New Mexico State Historic Preservation Officer to maintain and preserve the [name of archeological site] as follows:

1. No disturbance of the ground surface or any other thing shall be undertaken or permitted to be undertaken on [name of archeological site] which would affect the physical integrity of the [name of archeological site] without the express prior written permission of the [name of agency or organization], signed by a fully authorized representative thereof. The [name of agency or organization] may require, as a condition of the granting of such permission, that the [name of recipient] conduct archeological data recovery operations or other activities designed to mitigate the adverse effect of the proposed activity on the [name of archeological site]. In the event that such a requirement is made, the [name of recipient] shall at [his/her/its] own expense conduct such activities in accordance with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and such standards and guidelines as the [name of agency or organization] specify. Standards and guidelines may include but will not be limited to those for research design, conduct of field work, conduct of analysis, preparation and dissemination of reports, disposition of artifacts and other materials, consultation with Native American or other organizations, and reinterment of human remains.

2. [Name of recipient] shall make every reasonable effort to prohibit any person from vandalizing or otherwise disturbing the [name of archeological site], and shall promptly report any such disturbance to the [name of agency or organization].

3. The [name of agency or organization] shall be permitted at all reasonable times to inspect [name of archeological site] in order to ascertain if the above conditions are being observed.

4. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the [name of agency or organization] will take all feasible steps to remedy the violation in an timely manner, and may, following reasonable notice to [name of recipient], institute suit to enjoin said violation or to require the restoration of [name of archeological site]. The [name of agency or organization] if successful shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

5. [Name of recipient] agrees that the [name of agency or organization] may at his discretion without prior notice to [name of recipient], convey and assign all or part of its rights and responsibilities contained herein to a third party.

6. This covenant is binding on [name of recipient], [his/her/its] heirs, successors, and assigns in perpetuity. Restrictions, stipulations, and covenants contained herein shall be inserted by [name of recipient] verbatim or by express reference in any deed or other legal instrument by which [he/she/it] divests [himself/herself/itself] of either the fee simple title or any other lesser estate in [name of archeological site] or any part thereof.

7. The failure of [name of agency or organization] to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

The covenant shall be a binding servitude upon the real property that includes the [name of archeological site] and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that [name of recipient] agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.

**ATTACHMENT D:**  
**AMENDMENT FORM**

AMENDMENT # \_\_\_\_\_

DATE: \_\_\_\_\_

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE DEPARTMENT OF THE ARMY  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AND THE NEW MEXICO STATE HISTORIC PRESERVATION OFFICER  
CONCERNING CLOSURE AND DISPOSAL  
OF FORT WINGATE DEPOT ACTIVITY, NEW MEXICO**

1. Need for Amendment:

[Describe briefly]

2. Amendment:

[Specify]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Executive Director

**DEPARTMENT OF THE ARMY**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commander, Fort Wingate Depot Activity

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commander, Tooele Army Depot

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Army Materiel Command

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Paul W. Johnson  
Deputy Assistant Secretary of the Army  
for Installations and Housing

**NEW MEXICO STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Thomas W. Merlan, State Historic Preservation Officer

Concur:

**BUREAU OF LAND MANAGEMENT**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**NATIONAL PARK SERVICE**

By: \_\_\_\_\_ Date: \_\_\_\_\_



NAVAJO NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

ZUNI TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_

RE-USE COMMITTEE FOR FORT WINGATE

By: \_\_\_\_\_ Date: \_\_\_\_\_

## MEMORANDUM OF AGREEMENT

### BETWEEN THE DEPARTMENT OF THE ARMY, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE ARIZONA STATE HISTORIC PRESERVATION OFFICER REGARDING REALIGNMENT OF ACTIVITIES TO YUMA PROVING GROUND, ARIZONA

WHEREAS the United States Department of the Army (Army) has determined that the realignment of certain activities from the Jefferson Proving Ground, Indiana to the Yuma Proving Ground, Arizona (YPG) as part of the Base Realignment and Closure (BRAC) program may have effects on properties that are eligible for inclusion in the National Register of Historic Places (historic properties), and has consulted with the Arizona State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (Council), in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 et seq (the Act), its implementing regulations (36 CFR Part 800), and the Programmatic Agreement (PA) among the Army, the Council, and the National Conference of State Historic Preservation Officers executed 05 February 1990; and

WHEREAS pursuant to Stipulation VI.E of the PA, the consulting parties have agreed that because the precise nature and schedule of BRAC activities at YPG are uncertain, and are likely to affect properties whose treatment will require the application of routine procedures, it is appropriate for the Army in this Memorandum of Agreement to set forth processes for the identification, evaluation, treatment and management of historic properties in lieu of identifying such properties and establishing specific treatment or management plans for them prior to making decisions regarding such activities;

NOW, THEREFORE, it is mutually agreed that the following stipulations will be adhered to in order to take into account the effects of BRAC activities on historic properties at YPG in accordance with the Act.

#### Stipulations

The Army will ensure that the following stipulations are implemented:

##### I. Intensive Survey

A. The Army will ensure that an intensive survey is undertaken of the places shown as locations of proposed undertakings in Attachment 1, unless such survey is effected by the constraints and processes specified in Stipulation IV.C. Such surveys shall be in accordance with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and applicable SHPO guidelines. The survey will seek to identify historic and prehistoric archeological sites, traditional cultural properties, other kinds of possible historic, cultural, or religious properties, and isolated artifacts within those areas that will be affected by construction, weapons and munitions testing, and other ground-disturbing activities. The survey will also seek, through consultation with the Quechan Indian Nation, the Yavapai-Prescott Tribe, the Tohono O'odham Nation, and the Colorado River Indian tribes (collectively, the Tribes), to determine what concerns they may have about effects on historic properties that may result from construction on and use of the locations shown in Attachment 1. The Army will develop scopes of work for the survey in consultation with the SHPO, and coordinate any changes in such scopes with the SHPO.

B. Should plans for proposed BRAC undertakings shown in Attachment 1 change, the Army will notify the SHPO and Council, replace the undertaking maps in Attachment 1, and provide replacement maps to the agreement parties. The Army in consultation with the SHPO shall in such cases ensure that the survey scope of work is modified to reflect changes in the nature of the undertaking.

C. In consultation with the SHPO, the Army will apply the National Register Criteria (36 CFR 60.4) to any property identified by the survey, to determine the property's eligibility for inclusion in the National Register of Historic Places (Register) in a manner consistent with 36 CFR 800.4(c) and pertinent guidelines of the National Park Service, Council, and SHPO. Should the Army and SHPO be unable to agree as to whether a site is eligible for inclusion in the Register, or if the Council or the Secretary of the Interior so request, the Army will seek a formal determination of eligibility from the Keeper of the National Register pursuant to 36 CFR 800.4(c)(4).

## **II. Assessment and Treatment of Effects**

A. In consultation with the SHPO, the Army will determine whether each BRAC activity will have effects on historic properties, and if so, whether the effect will be adverse, in accordance with 36 CFR 800.5.

B. Where a BRAC activity will have adverse effects on a historic property, if the Army and the SHPO agree, taking into account the comments, if any, of the Tribes and any other interested persons identified pursuant to 36 CFR 800.5(e)(1), and the proposed treatment meets one or more of the exceptions to the criteria of adverse effect identified in 36 CFR 800.9(c), the Army need not request Council comment on the determination, but may instead proceed with the finalizing a mitigation effort in consultation with the SHPO.

## **III. Historic Preservation Plan**

A. The Army will prepare a Historic Preservation Plan (HPP) for YPG, in consultation with the SHPO, Council, and the Tribes and in accordance with the standards outlined in Attachment 2. The Army will ensure that the HPP is complete in draft form by September 30, 1994 at the latest, and that subject to resolution of disagreements or questions in accordance with paragraph B, the HPP is finalized and implemented by September 30, 1995.

B. When the HPP is complete in draft form, the Army will provide copies of the draft to the SHPO, the Council and the Tribes for review and comment. Disagreements or questions about the draft HPP will be resolved through consultation among the parties. Disputes shall be resolved as provided in Stipulation IX.

C. Upon acceptance of the HPP by the SHPO and the Council, and taking into account the views of the Tribes, the Army will finalize and implement it in lieu of compliance with 36 CFR 800.4 through 800.6 and 36 CFR 800.11.

D. The Army will prepare a report every year on its implementation of the HPP, and provide this report to the SHPO and Council for review, comment, and consultation as needed.

E. The Army will ensure that the HPP is re-evaluated and updated as needed on a five-year implementation cycle, in consultation with the SHPO, Council, and the Tribes. Should the HPP require significant revision, the Army will initiate consultation with the Council in accordance with 36 CFR 800 to make such revisions and to amend or replace this agreement.

## **IV. Interim Protection of Historic Properties**

A. Until the HPP has been accepted by the SHPO and the Council, the Army will comply with 36 CFR 800 with respect to any undertaking it proposes to carry out at YPG, except as provided in stipulations I and II above and stipulations IV.B, and IV.C below.

B. Undertakings whose effects will occur entirely within the boundaries of the main post housing area (as indicated on Attachment 1), which has been completely disturbed by prior construction and land use activities, and whose structures were all constructed after 1954 and are therefore categorically ineligible for inclusion in the National Register, are understood to have so little potential to affect historic

properties that they require no review by the SHPO or Council, subject to the requirements of Stipulation IX.

C. Undertakings whose effects will occur entirely within impact areas as shown in Attachment 1, may be surveyed at a lower level of intensity than would otherwise be appropriate, or may not be surveyed at all, to avoid undue danger of injury to survey personnel by contact with unexploded ordnance or toxic substances. Any such modification in survey methodology shall result from the successful interaction of the Army and the SHPO. The areas of potential effects of such undertakings within impact areas will be subject to inspection and review only to the extent agreed upon by YPG and the SHPO; agreement may be reached by telephone and confirmed within ten work days in correspondence from the Army to the SHPO, but subject to the requirements of Stipulation IX.

V. Reporting. The Army shall ensure that reports on all activities carried out pursuant to this agreement are provided to the SHPO, and, upon request, to other interested parties, inasmuch as such disclosure is not in violation of the Archeological Resources Protection Act (ARPA) of 1979, (16 U.S.C. Section 470hh).

VI. Qualification of personnel. The Army shall ensure that all archeological surveys, data recovery work and HPP preparation carried out pursuant to this agreement is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the pertinent qualifications set forth at Appendix C of Army Regulation 420-40 (Attachment 3).

#### VII. Amendments.

A. The parties to this agreement may amend its terms, and the provisions of any attachment hereto, by all parties signing the form provided as Attachment 4. An amendment will be effective when such form has been executed by all parties.

B. The Army will ensure that the Tribes are afforded the opportunity to comment on any amendment that may affect the Tribes' interests.

C. Upon execution of the amendment, each party will attach a copy of the fully executed form to that party's copy of this agreement, and will enter the amendment number and date on the upper right-hand corner of the first page of this agreement.

VIII. Scheduled Consultation. Twelve months after this agreement is executed and annually thereafter until the HPP has been finalized and its implementation has been initiated in accordance with the terms of this agreement, the parties to this agreement will consult to review implementation of its terms and determine whether revisions are needed. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR 800 to make such revisions.

#### IX. Dispute Resolution.

A. Should any party to this agreement object within 30 days to any plans or other documents provided by the Army or others for review pursuant to this agreement or to any actions proposed or initiated by the Army that may pertain to the terms of this agreement, the Army shall consult with the objecting party to resolve the objection. If the Army determines that the objection cannot be resolved, the Army shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

1. Provide the Army with recommendations, which the Army will take into account in reaching a final decision regarding the dispute; or

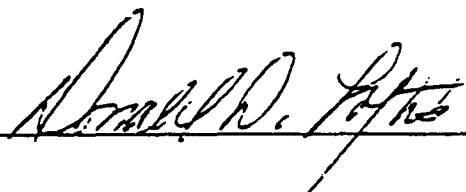
2. Notify the Army that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the Army in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

B. Any recommendations or comments provided by the Council pursuant to Stipulation IX.A will be understood to pertain only to the subject of the dispute: the Army's responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

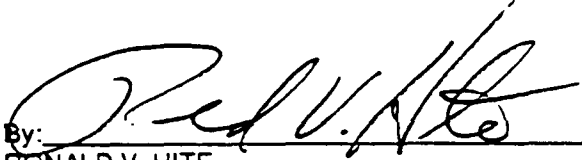
C. At any time during planning implementation of the measures stipulated in this agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the Army shall take the objection into account and consult as needed with the objecting party, the SHPO, other pertinent parties, and the Council to resolve the objection.

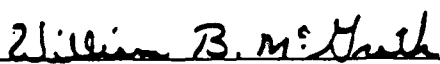
Execution and implementation of this Memorandum of Agreement evidences that the Army has afforded the Council a reasonable opportunity to comment on the realignment of activities at YPG, and that the Army has taken into account the effects of the undertaking on historic properties.


DEPARTMENT OF THE ARMY

By:  Date: 5 Sept, 91

Commander  
Yuma Proving Ground

By:  Date: 2 Oct 91  
RONALD V. HITE  
Brigadier General, USA  
Commander  
U.S. Army Test and Evaluation Command

By:  Date: 30-10-91  
WILLIAM B. McGRATH  
Major General, USA  
Chief of Staff  
U.S. Army Materiel Command

By:  Date: 17 JULY 1992  
Paul W. Johnson  
Deputy Assistant Secretary of the Army  
for Installations and Housing

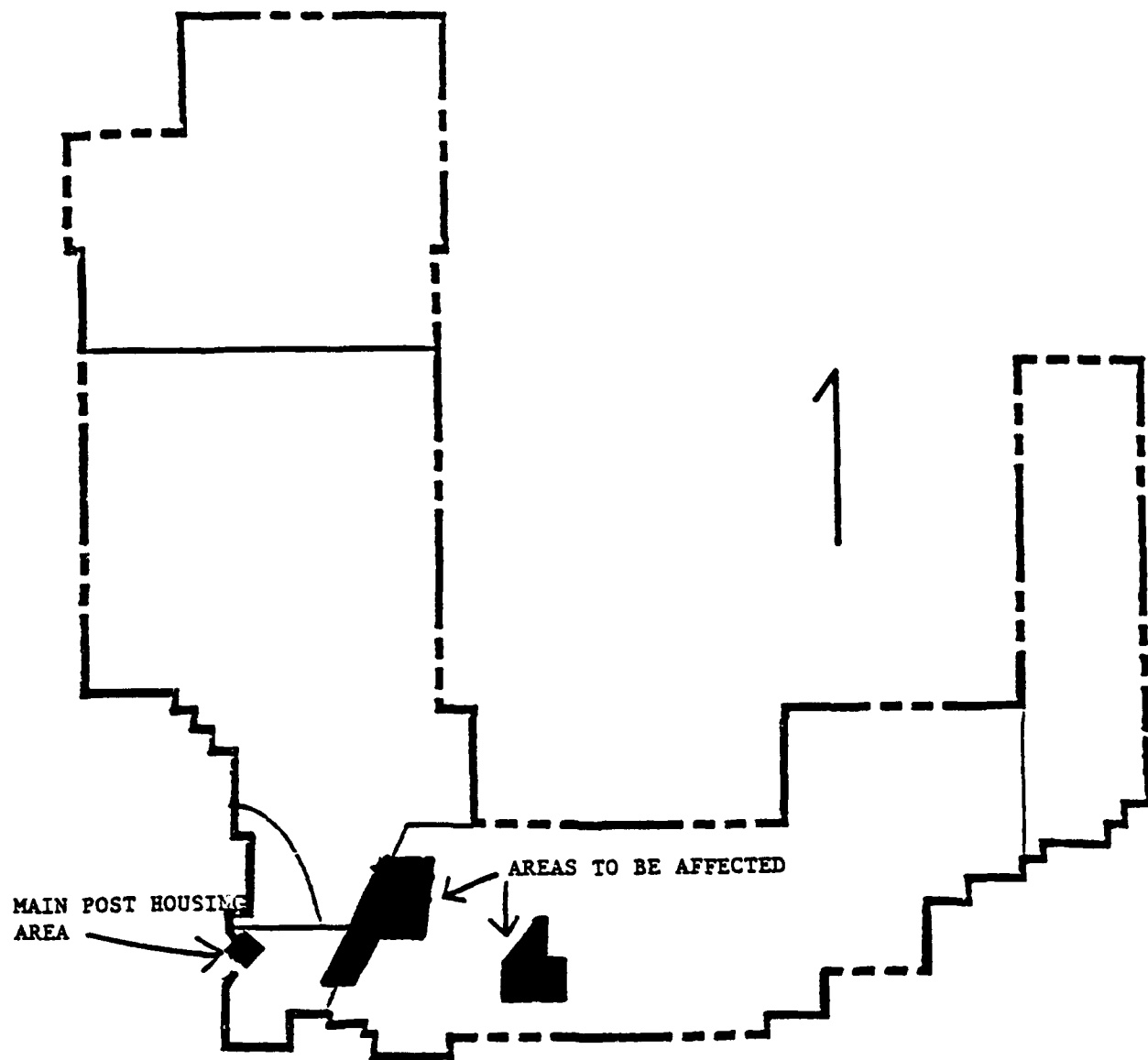
ARIZONA STATE HISTORIC PRESERVATION OFFICER

By: Shoreen Lerner Date: 9/17/91  
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

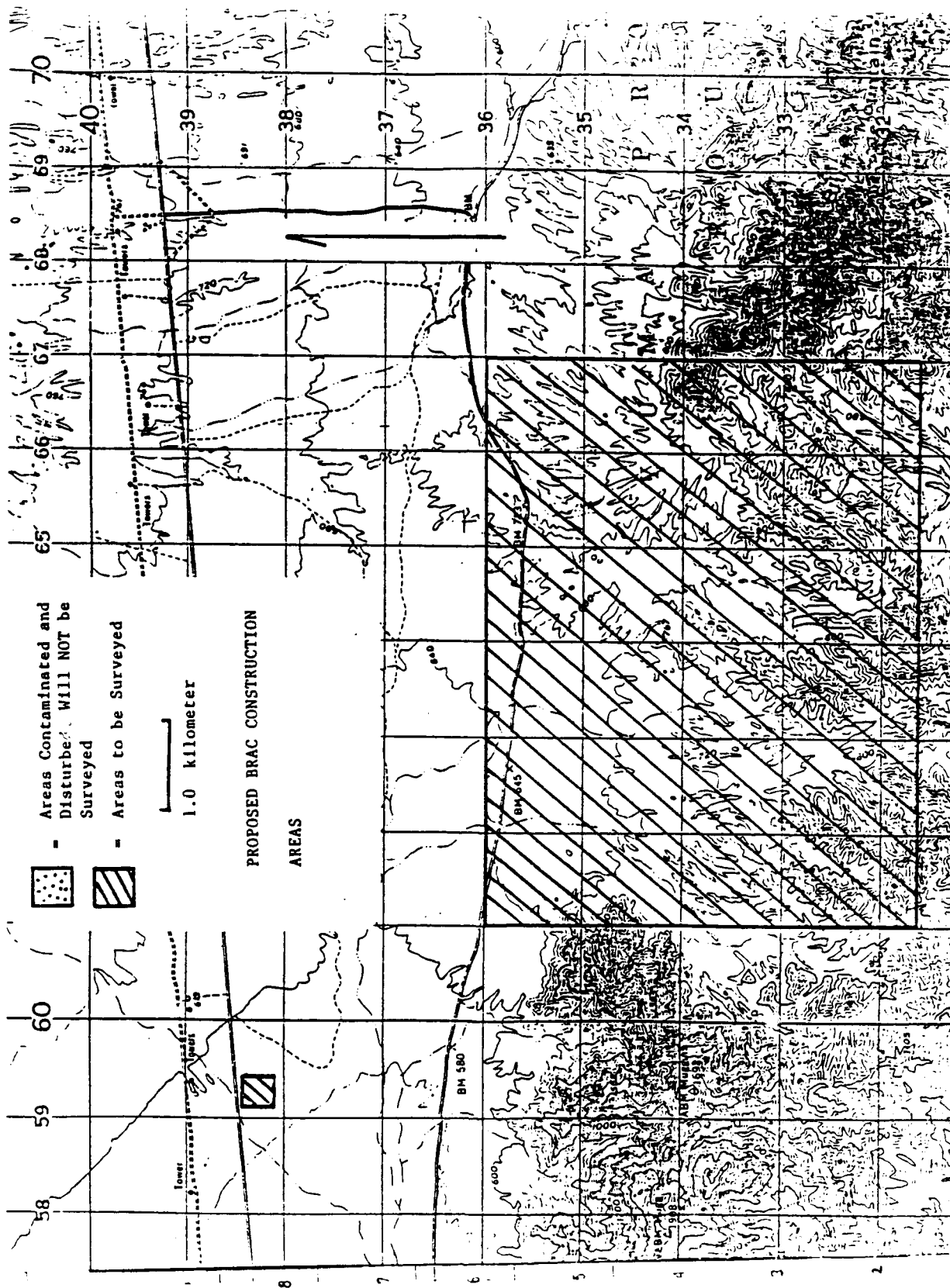
By: Robert W. Bush Date: 8/19/92  
Executive Director

ATTACHMENT 1

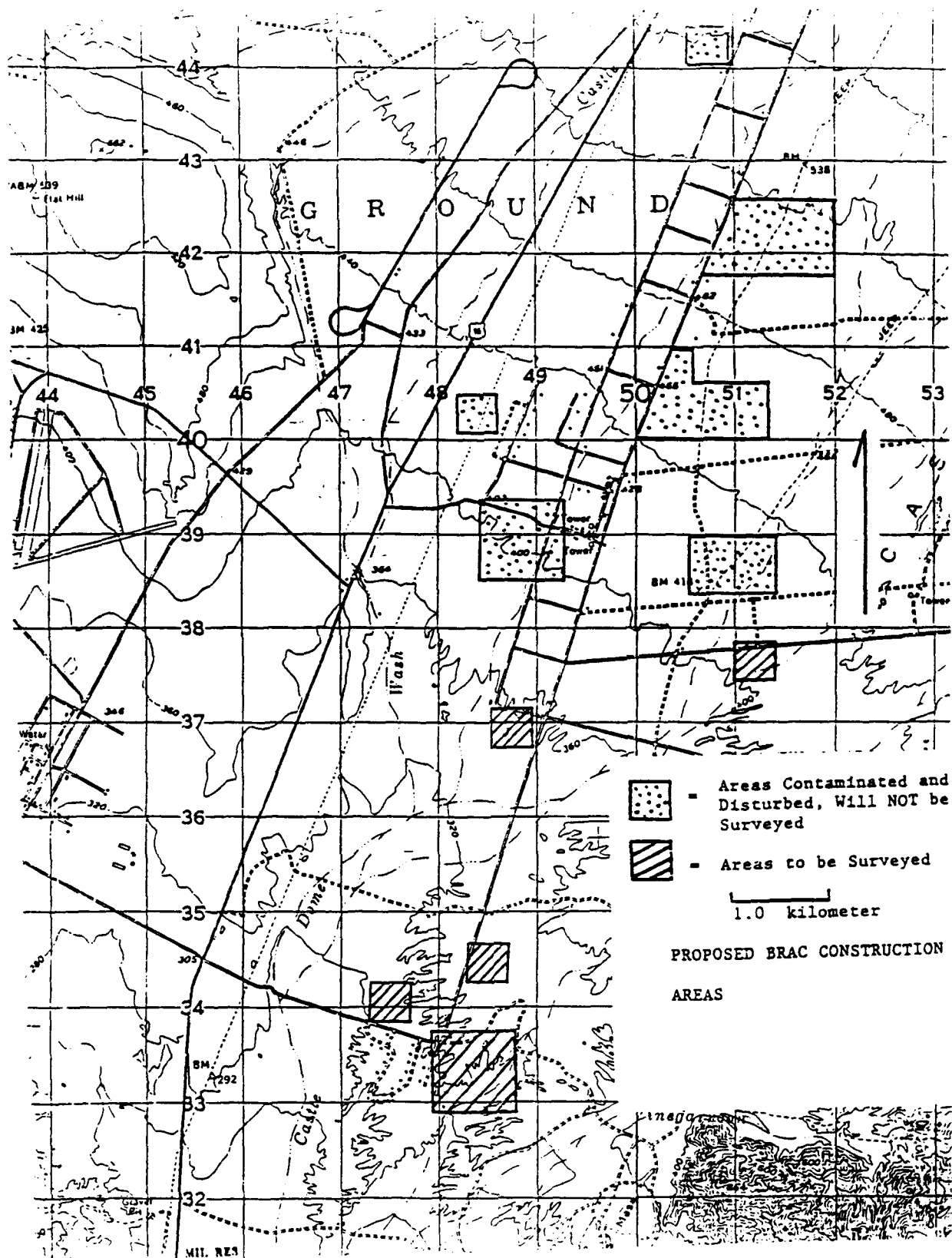


LOCATIONS OF PROPOSED BRAC ACTIVITIES

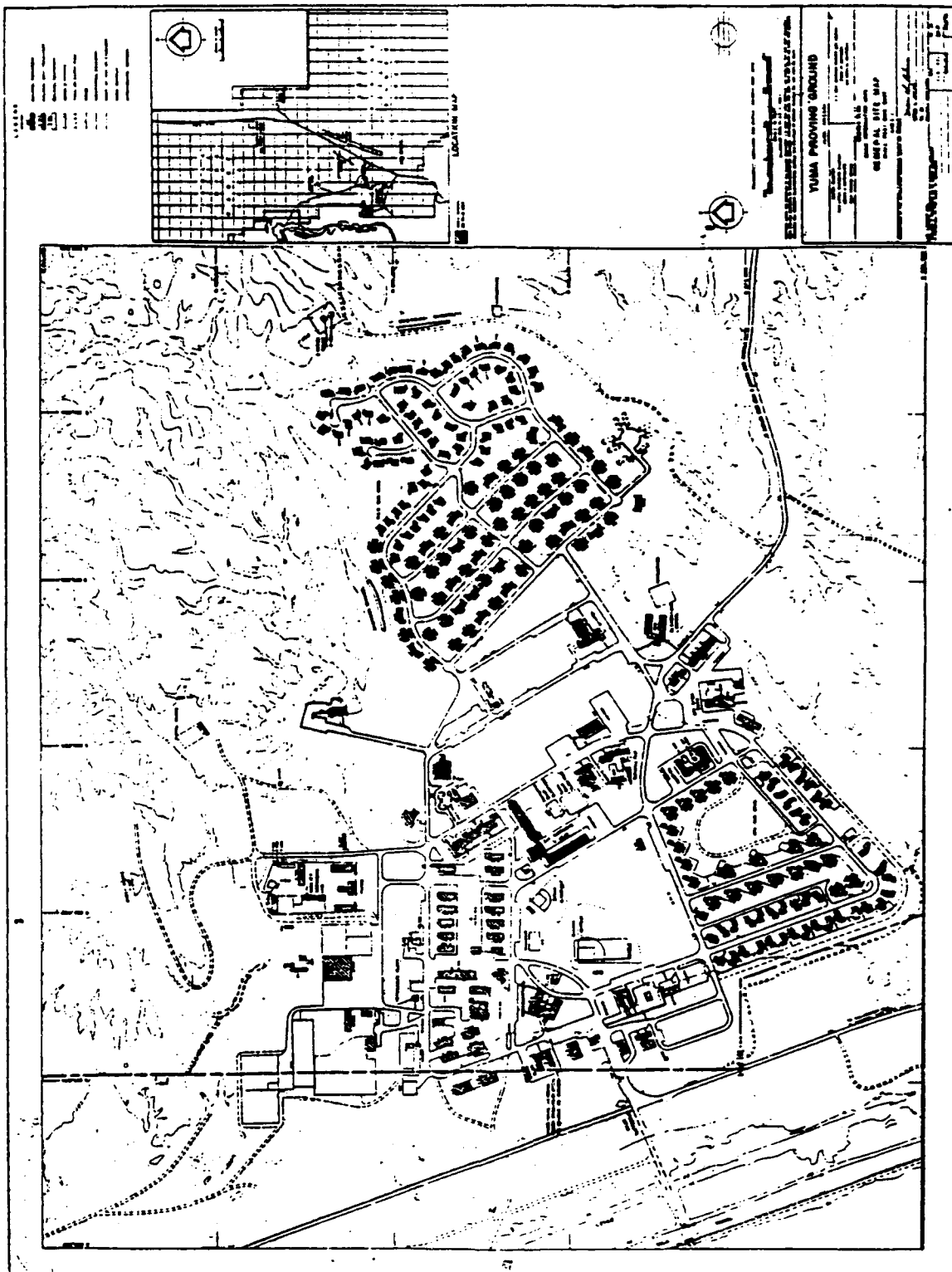
YUMA PROVING GROUND

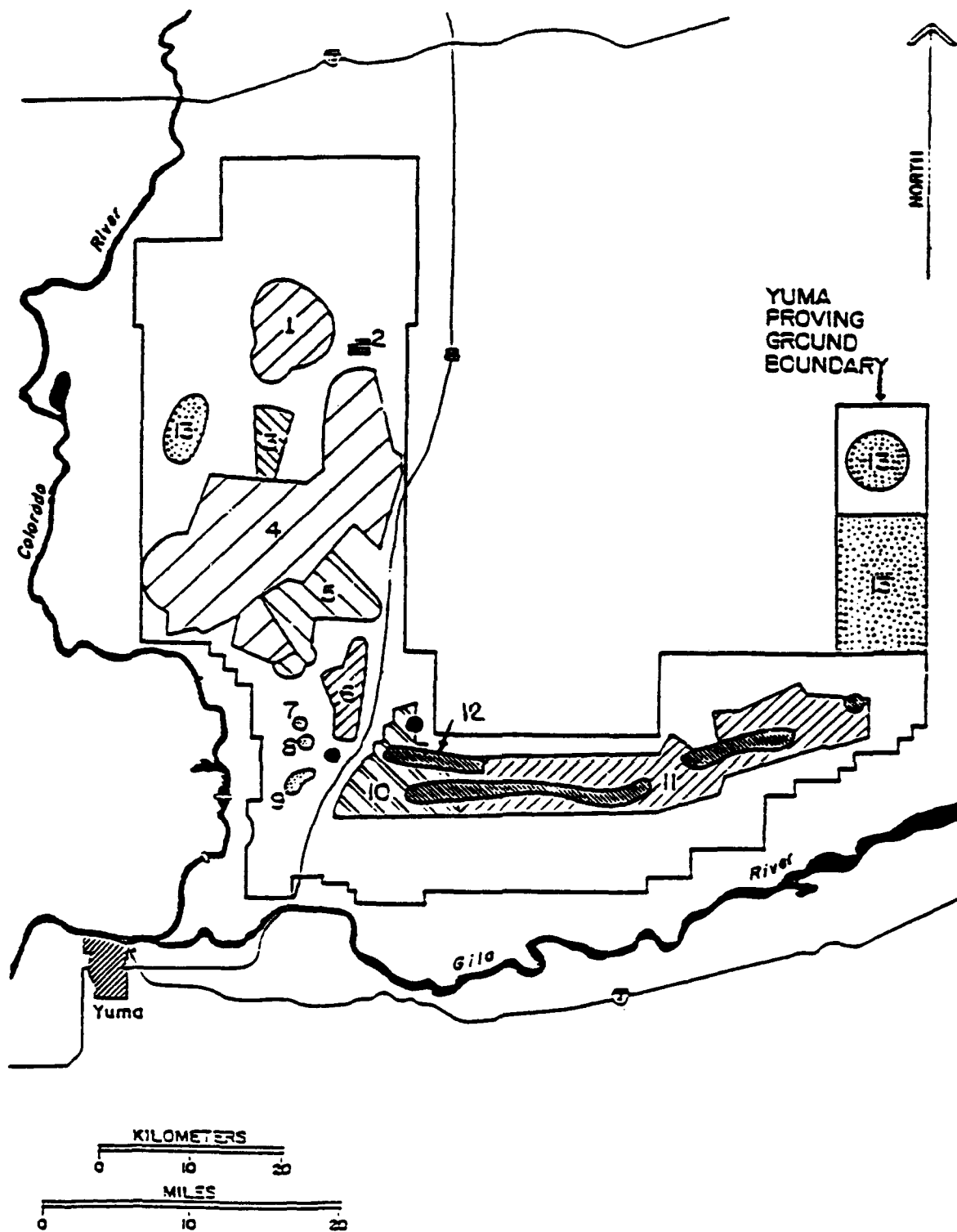






# MAIN POST HOUSING AREA





# CHEMICAL AND MUNITIONS CONTAMINATION AREAS ON THE YUMA PROVING GROUND.

(Detailed Maps have been Provided to the Arizona SHPO)

CONTAMINATION AREAS ON THE YUMA PROVING GROUND  
(FROM HIGGINBOTHAM AND ASSOCIATES 1978: C-50, FIG.16).

1. 105 and 155 mm artillery shells.
2. Previous chemical test area (residue unknown).
3. 2.75 in rockets.
4. 2.75 in rockets, 20 and 40 mm shells.
5. 2.75 in rockets and flechette increments.
6. 20, 30 and 40 mm rounds, 60 and 81 mm mortars, 2.75 in rockets, 105 and 155 mm shells.
7. Various explosive item drop zone.
8. Previous chemical test area (residue unknown).
9. 60, 81, 105 and 106 mm mortars, 8 in mines.
10. 4.2 in, 60 and 81 mm mortar shells, 2.75 in rockets.
11. 8 in, 105, 155 and 175 mm shells, 2.75 in rockets and flechette increments.
12. Depleted uranium and beryllium.
13. Aerial bombs.

ATTACHMENT 2  
HISTORIC PRESERVATION PLAN STANDARDS

=====

The Historic Preservation Plan (HPP) for YPG shall be prepared in accordance with, but shall not be limited to, the following standards.

A. The HPP will be prepared by or under the supervision of an individual who meets, or individuals who meet, at a minimum, the professional qualifications standards for archeology in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

B. The HPP will be prepared with reference to:

1. The Secretary of the Interior's Standards and Guidelines for Preservation Planning (48 FR 44716-20);

2. the Section 110 Guidelines (53 FR 4727-46; Advisory Council on Historic Preservation and National Park Service 1989);

3. Army Regulation 420-40;

4. SHPO memorandum of 05 Feb 1988, subject Standardized Report Abstracts and Site Recordation.

5. Arizona State Historic Preservation Plan.

C. The HPP will be prepared in consultation with:

1. The SHPO;

2. The Quechan Indian Nation;

3. The Yavapai-Prescott Tribe, and

4. The Tohono O'odham Nation, and

5. The Colorado River Indian Tribes.

D. The HPP will address the full range of historic properties that may exist at YPG, including but not limited to buildings and structures, archeological sites, landscapes, and traditional cultural properties.

E. The HPP will incorporate data produced by the survey work conducted pursuant to Stipulation I and other surveys conducted at YPG.

F. The essential purpose of the HPP will be to establish processes for integrating the preservation and use of historic properties with the mission and programs of the Army in a manner appropriate to the nature of the historic properties involved, the nature of YPG, and the nature of the Army's mission, programs, and planning processes at YPG.

G. In order to facilitate such integration, the HPP, including all maps and graphics, will be made consistent with the database management system and planning system employed by YPG.

H. The HPP need not be a single document.

I. The HPP will include the following elements:

1. An explanation of the basis upon which the HPP is being prepared.
2. An introduction to the organization and use of the various sections of the HPP.
3. A synthesis of available data on the history, prehistory, and ethnography of YPG and its surrounding area, to provide a historic context in which to evaluate and consider alternative treatment strategies for different classes of historic properties.
4. A database, expandable as more information becomes available, that includes:
  - a. Descriptions of all properties within YPG that are known or thought to meet the National Register criteria (36 CFR 60.4);
  - b. Descriptions of all properties that have been identified and subjected to data recovery prior to their disturbance, whether or not such disturbance has in fact occurred;
  - c. Descriptions of all properties that have been identified and determined not to meet any of the National Register criteria; and
  - d. Information on lands subjected to historic properties surveys, together with reports of such surveys and their results.
5. Projections of the distribution and nature of historic properties that may exist on Proving Ground lands, based on the synthesis and database, together with an estimate of the accuracy of the projections, and mechanisms for testing, refining, and verifying the projections to the extent needed through field survey and other further research.
6. Procedures for the identification and evaluation of historic properties that may be affected by Army activities at YPG, providing for identification and evaluation to take place in a timely manner during the planning of any actions that might affect historic properties.
7. Procedures for the management of historic properties within YPG, including but not limited to:
  - a. Procedures for the use of historic properties for agency purposes or the purposes of others, in a manner that does not cause significant damage to or deterioration of such properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (b);
  - b. Procedures for affirmatively preserving historic properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (c);
  - c. Procedures for the maintenance of historic properties, with reference to the Section 110 Guidelines, Section 110(a) (2), Discussion (d)(1)(i);
  - d. Procedures for the avoidance or mitigation of adverse effects on historic properties, with reference to the Section 110 Guidelines, Section 110(a)(2), Discussion (d)(1)(iii); that ensure the Army's compliance with Section 106 of the National Historic Preservation Act without necessarily adhering to the procedural steps and standards set forth at 36 CFR 800 or in Chapter 3 of AR 420-40; and
  - e. Procedures for consulting with relevant parties during implementation of the HPP, with reference to the Section 110 Guidelines, Part III, and specifically identifying circumstances under which the SHPO, one or more Indian tribes, or other interested parties will be consulted, and outlining how such consultation will be initiated and carried out.

## ATTACHMENT 3

15 April 1984

### APPENDIX C-1 TO ARMY REGULATION 420-20

#### Appendix C Historic Preservation Professional Qualifications Guide

Follow this guide when selecting preservation professionals and organizations. These are minimum requirements.

##### C-1. Archeologist

The candidate must have a master's degree in archeology or anthropology with a specialty in archeology, plus the following obtained after the master's degree:

a. At least 2 years of professional experience or specialized training in the archeology field, laboratory experience, and experience with library research.

b. At least 1 year of experience in general North American archeology.

c. At least 1 year of experience in a supervisory role.

d. A proven ability to work independently, to understand archeological resources management techniques and to complete research. Competence in designing and carrying out archeological projects is shown by one or more of the following:

- (1) Doctorate dissertation.
- (2) Research reports.
- (3) Similar documents.

e. For work involving prehistoric archeology, at least 1 year of experience working with prehistoric archeological resources.

f. For work involving historic archeology, at least 1 year of experience working with archeological resources of the historic period.

g. A proven familiarity with the archeological resources of the region where the person is to work.

##### C-2. Historical architect

The candidate must have a bachelor of architecture degree, plus the following:

a. Activities in architectural preservation as the person's main practice.

b. At least 1 year of graduate study in one of the following:

- (1) Architectural preservation.
- (2) American architectural history.
- (3) Preservation planning.

(Additional full-time experience on preservation projects may replace graduate study.)

c. Architectural registration.

d. At least 2 years of practical experience on preservation and restoration projects. This experience should be on architectural conservation and restoration projects.

##### C-3. Architectural historian

The candidate must have either of the following:

a. A master's degree in architectural history or in art history and—

(1) A concentration in US art or architecture.

(2) Related experience in research, writing, or teaching US architectural history with one of the following:

- (a) An academic institution.
- (b) A historical organization.
- (c) A preservation office.
- (d) A museum.

(e) A professional institution similar to those listed in (a) through (d) above.

b. A bachelor's degree in art history, architectural history, or US history plus—

(1) A record of research and publication that contributes a great deal to the scholarly knowledge of US architectural history.

(2) A special graduate degree or certificate in preservation or conservation with emphasis on US architecture, plus the qualification in a(2) above.

##### C-4. Historian

A candidate must have either of the following:

a. A master's degree in history or in a closely related field and at least 2 years of experience in research, writing, interpretation, or another professional activity with one of the institutions listed in paragraph C-3a.

b. A bachelor's degree in history and at least 3 years of experience in research, writing, interpretation, or another professional activity with one of the institutions listed in paragraph C-3a(2).

##### C-5. Preservation planner

A candidate must have the following:

a. A master's degree in urban or regional planning with a specialty in history, architectural history, anthropology, or a closely related field that provides an understanding of US physical and cultural history.

b. At least 1 year of experience in conducting research, writing, or related field work for a historic preservation program or plan.

c. At least 2 years of experience in one of the following:

- (1) A land use or preservation program.
- (2) Preservation project planning or management.
- (3) Cultural resources and land use management.

##### C-6. Contributing disciplines

Persons in disciplines that contribute to the understanding of historic properties (for example, building materials specialists, paleontologists, geologists, and geomorphologists) must have the following:

a. A master's degree in their discipline.

b. At least 2 years of professional or specialized training in their specialty.

c. At least 1 year of experience in their specialty.

d. At least 1 year of experience in a supervisory role.

e. A proven ability to carry studies to completion as shown by completion of a master's thesis or doctorate dissertation.

f. A master or equal skill level for artisan or building contractor.

#### **C-7. Project directors or principal investigators**

Candidates for positions as directors of archeological or historic preservation projects must be duly authorized agents of organizations, institutions, museums, or firms (para C-6) and must have the following:

a. The qualifications listed above as they relate.

b. A doctorate or an equal level of professional experience as proven by a publication or other record. This should show experience in designing, executing, and reporting projects.

c. Professional references that will show the relevance of prior work.

d. Experience in the cultural setting of the proposed project. This is not essential, but persons should state the drawbacks, if any, from lack of this experience. They should show their plans to compensate for these limitations.

e. Printed project reports or descriptions and a list of personal references of previous experience.

#### **C-8. Organizations**

To obtain an archeological or historic preservation contract, and sponsor a principal investigator or project director, a firm must have access to the following capabilities:

a. Enough trained personnel to conduct the needed field, laboratory, analytical, and report writing operations.

b. Enough field equipment to conduct needed field operations.

c. Enough laboratory and office space for proper treatment, analysis, and temporary storage of specimens and records. This does not include a chemical laboratory or similar place, but does include a place to preserve or stabilize specimens for later analysis.

d. Access to adequate library resources to conduct research required by project.

e. Enough statistical, computer, photographic, cartographic, and editorial services.

f. Administrative ability to complete contracted projects within the agreed time.

g. The ability to store and manage a large number of records, photographs, maps, and specimens until provision can be made for their long-term care. This applies after project results have been published, as well as during the project.



## MEMORANDUM OF AGREEMENT

### BETWEEN THE DEPARTMENT OF THE ARMY AND THE ARIZONA STATE HISTORIC PRESERVATION OFFICER CONCERNING CLOSURE OF THE NAVAJO ARMY DEPOT ACTIVITY

WHEREAS the United States Department of the Army (Army) and the National Guard Bureau (Guard) have determined that the closure of Navajo Depot Activity, Arizona (Depot) may have effects on properties that are eligible for inclusion in the National Register of Historic Places (historic properties), and has consulted with the Arizona State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 et. seq. (the Act), its implementing regulations (36 CFR Part 800), and the Programmatic Agreement (PA) among the Army, the Advisory Council on Historic Preservation (Council), and the National Conference of State Historic Preservation Officers executed 05 February 1990; and

WHEREAS pursuant to Stipulation VI.E of the PA, the consulting parties have agreed that because the precise nature and schedule of activities associated with the closure of the Depot are uncertain, and, since the Depot will be transferred to the Guard, the effects of transfer are likely to be minor, it is appropriate for the Army in this MOA to set forth processes for the identification, evaluation, treatment and management of historic properties in lieu of identifying such properties and establishing specific treatment or management plans for them prior to closure;

NOW, THEREFORE, it is mutually agreed that the following stipulations will be adhered to in order to take into account the effect of the Project on historic properties in accordance with the Act.

### Stipulations

The Army will ensure that the following stipulations are implemented:

#### I. Archeological Survey of the Buffer Zone

A. The Installation Commander, Navajo Depot Activity (Installation), acting for the Guard and therefore the Army, will ensure that an archeological survey is undertaken of the Buffer Zone as shown in Attachment 1, in accordance with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and applicable SHPO guidelines. This survey effort will be prioritized to focus first on areas of highest training usage.

B. In consultation with the SHPO, the Installation will evaluate the eligibility of any historic and prehistoric archeological sites identified by the survey for inclusion in the National Register of Historic Places (Register) in a manner consistent with 36 CFR 800.4(c) and pertinent guidelines of the National Park Service, Council, and SHPO. Should the Installation and SHPO be unable to agree as to whether a site is eligible for inclusion in the Register, or if the Council or the Secretary of the Interior

so request, the Installation will seek a formal determination of eligibility from the Keeper of the National Register pursuant to 36 CFR 800.4(c)(4). The Council's regulations, 36 CFR 800, are included here as Attachment 2.

## **II. Cultural Resource Management Plan**

A. The Installation will ensure that a Cultural Resource Management Plan (CRMP) is prepared for the Depot, in consultation with the SHPO and the Navajo, Hopi, Havasupai, Yavapai, and Hualapai Indian tribes (Tribes), and the cities of Flagstaff and Williams (Cities), and in accordance with the standards outlined in Attachment 3. The Installation will ensure that a draft of the CRMP is complete by September 30, 1994, and that, subject to the resolution of disagreements or questions in accordance with Paragraph B, the CRMP is finalized and implemented by September 30, 1995.

B. When the CRMP is complete in draft form, the Installation will provide copies of the draft to the SHPO and the Council for review and acceptance. Disagreements or questions about the draft CRMP will be resolved through consultation among the parties.

C. Upon acceptance of the CRMP by the SHPO and the Council, the Installation will finalize and implement it in lieu of compliance with 36 CFR 800.4 through 800.6 and 36 CFR 800.11.

D. The Installation will prepare an annual report on its implementation of the CRMP, and provide this report to the SHPO, Council, the Tribes, and the Cities for review, comment, and consultation as needed. The report will include a list and description of activities that may be carried out in the coming year that could disturb land or modify buildings or structures.

## **III. Interim Protection of Historic Properties**

A. Until the CRMP has been accepted by the SHPO and the Council, the Installation will comply with 36 CFR 800 with respect to any undertaking the Installation proposes to carry out at the Depot (except for those activities listed in Attachment 4, which need be submitted to the SHPO for review only at the Installation's discretion).

1. Any activity not included in Attachment 4 that will result in disturbance of the ground surface will be assumed to have the potential for adverse effect on archeological sites unless the area to be disturbed has been surveyed by an archeologist acceptable to the SHPO and determined to contain no such sites. Where such a survey has shown that the area to be disturbed lacks archeological sites, the Installation shall notify the SHPO of its intention to undertake the ground disturbing activity, provide the SHPO with the results of the survey or reference a survey report on file with the SHPO if applicable, and may then proceed with the activity. Where such a survey has not been done, the Installation will consult with the SHPO regarding the need for a survey. If the installation and SHPO agree that a survey is needed, the installation will coordinate such a survey during the early phases of planning its ground disturbance actions and use the results of survey in compliance with 36 CFR 800.

2. Any activity not included in Attachment 4 that will result in the demolition or alteration of a building or structure will be assumed to have the potential for adverse effect on an historic building or structure, unless

the building or structure to be demolished or altered has been previously evaluated in accordance with 36 CFR 800.4(c) and found to be ineligible for inclusion in the National Register. Any building or structure constructed after 1946 will be considered ineligible for inclusion in the National Register until 1995, when the Installation and the SHPO will reconsider the eligibility of such buildings and structures. To initiate consultation with the SHPO regarding demolition or alteration of a building or structure that has not previously been found ineligible for inclusion in the National Register, the Installation will provide the SHPO, at the earliest possible stage in planning, a completed Arizona State Historic Property Inventory Form (Attachment 5) for the building or structure, together with photographs illustrating all four facades of the structure, with the Installation's determination as to the eligibility of the building or structure for inclusion in the National Register and a brief statement of the work proposed. The SHPO will respond to this submission within 30 days of receipt, and will assist the Installation in concluding review of its proposed activity under 36 CFR 800.

B. Based on the results of identification in accordance with Paragraph A above, the Installation will comply with 36 CFR 800 (Attachment 2) in order to assess the effects of its actions on historic properties and to develop and implement means of avoiding or mitigating effects that are adverse.

#### **IV. Consolidated Training Site Facility (CTSF)**

A. The proposed new CTSF may be constructed at the location specified in Attachment 1 without further review by the SHPO.

B. Construction of the CTSF at any other location will be reviewed in accordance with 36 CFR 800. The Installation will ensure that review under 36 CFR 800 is initiated early in planning for such construction.

V. Depot Records. The Installation will ensure that the base records are preserved in an appropriate manner, in consultation with the SHPO, the Center for Military History, and the Arizona Military Museum, and in accordance with Army Regulation 870-25.

VI. Reporting. The Installation shall ensure that reports on all activities carried out pursuant to this agreement are provided to the SHPO, and, upon request, to other interested parties, in so much as such disclosure is not in violation of the Archeological Resources Protection Act (ARPA) of 1979, (16 U.S.C. Section 470 et seq.).

VII. Qualification of Personnel. The Installation shall ensure that all archeological surveys and data recovery work carried out pursuant to this agreement is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the requirements set forth at Appendix C-1 to Army Regulation 420-40, dated 15 May 1984 (Attachment ).

#### **VIII. Amendments.**

A. The parties to this agreement may amend the terms of this agreement, and the provisions of any attachment hereto, by all parties signing the form provided as Attachment 6.

B. Upon execution of the amendment, each party will attach a copy of the fully executed form to that party's copy of this agreement, and will enter the

amendment number and date on the upper right-hand corner of the first page of this agreement.

**IX. Scheduled Consultation.** Twelve months after this agreement is executed and annually thereafter until the CRMP has been implemented in accordance with the terms of this agreement, the Installation will invite the parties to this agreement to review implementation of its terms and determine whether revisions are needed, and will provide sufficient information to facilitate such review. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR Part 800 to make such revisions.

**X. Dispute Resolution.**

A. Should any party to this agreement object within 30 days to any plans or other documents provided by the Installation or others for review pursuant to this agreement or to any actions proposed or initiated by the Installation that may pertain to the terms of this agreement, the Installation shall consult with the objecting party to resolve the objection. If the Installation determines that the objection cannot be resolved, the Installation shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

1. Provide the Installation with recommendations, which the Installation will take into account in reaching a final decision regarding the dispute; or

2. Notify the Installation and the Army that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the Installation and the Army in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

B. Any recommendation or comment provided by the Council pursuant to Stipulation X.A will be understood to pertain only to the subject of the dispute; the Installation's responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

C. At any time during planning implementation of the measures stipulated in this agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the Installation shall take the objection into account and consult as needed with the objecting party, the SHPO, and the Council to resolve the objection.

Execution and implementation of this Memorandum of Agreement evidences that the Army has afforded the Council a reasonable opportunity to comment on the closure and transfer of the Navajo Depot Activity, and that the Army has taken into account the effects of the undertaking on historic properties.

DEPARTMENT OF THE ARMY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commander, Navajo Depot Activity

By: \_\_\_\_\_ Date: \_\_\_\_\_  
National Guard Bureau

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Army Materiel Command

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Paul W. Johnson  
Deputy Assistant Secretary of the Army for Installations and Housing

ARIZONA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Shereen Lerner, PHD, State Historic Preservation Officer

ACCEPTED for the ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Executive Director

ATTACHMENT 1

MAP OF NAVAJO DEPOT SHOWING BUFFER ZONE, AND THE CONSOLIDATED  
TRAINING SITE FACILITY

=====

ATTACHMENT 2

36 CFR 800

=====

### ATTACHMENT 3

#### CULTURAL RESOURCE MANAGEMENT PLAN STANDARDS

The Cultural Resource Management Plan (CRMP) for the Navajo Depot Activity shall be prepared in accordance with, but not limited to, the following standards.

A. The CRMP will be prepared by, or under the supervision of an individual who meets, or individuals who meet, at a minimum, the professional qualifications standards for archeology in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

B. The CRMP will be prepared with reference to:

1. The Secretary of the Interior's Standards and Guidelines for Preservation Planning (48 FR 44716-20);

2. The Section 110 Guidelines (53 FR 4727-46; Advisory Council on Historic Preservation and National Park Service 1989);

3. Army Regulation 432-40;

4. SHFO memorandum of 5 February 1988, subject Standardized Report Abstracts and Site Recordation.

5. Arizona State Historic Preservation Plan.

C. The CRMP will be prepared in consultation with:

1. The SHFO; and

2. The Navajo Nation.

D. Others will be offered an opportunity to participate in consultation on the CRMP, and will be allowed to participate if they so request. These others include:

1. The Hopi Tribe;

2. The Havasupai Tribe;

3. The Yavapai Tribe;

4. The Hualapai Tribe;

5. The City of Flagstaff; and

6. The City of Williams.

E. The CRMP will address the full range of historic properties that may exist on lands of the Depot, including, but not limited to, buildings and structures, archeological sites, landscapes, and traditional cultural properties.

F. The CRMP will incorporate data produced by the survey work conducted pursuant to Stipulation I.

G. The CRMP will give specific attention to the Overland Road in Sections 9, 10, 11, and 12, T21N, R6E; and, Sections 7, 17 and 18, T21N, R6E; and, to the Smith Ranch at Volunteer Spring (Section 11, T21N, R.5E).

H. The essential purpose of the CRMP will be to establish processes for integrating the preservation and use of historic properties with the mission and programs of the Installation in a manner appropriate to the nature of the historic properties involved, the nature of the Depot, and the nature of the Installation's mission, programs, and planning processes.

I. In order to facilitate such integration, the CRMP, including all maps and graphics, will be made consistent with the database management system and planning system employed by the Installation, provided that archeological and architectural records are consistent with Paragraph K.4.

J. The CRMP need not be a single document, and appropriate elements of the CRMP should be maintained in electronic media compatible with the Installation's information management system.

K. The CRMP will include the following elements:

1. An explicit statement of Installation policy toward historic properties, explaining how the requirements of applicable historic preservation laws and regulations are to be addressed in general in the context of the Installation's mission.

2. An introduction to the organization and use of the various sections of the CRMP.

3. A synthesis of available data on the history, prehistory, architecture, architectural history, landscape architecture, and ethnography of the Depot and its surrounding area, to provide a historic context in which to evaluate and consider alternative treatment strategies for different classes of historic properties.

4. A database, expandable as more information becomes available, including descriptions of all properties within the Depot that are known or thought to meet the National Register criteria (36 CFR 60.4), including but not limited to the information needed to complete an Arizona State Historic Property Inventory Form for each standing structure or an archeological site description in the Arizona State Museum AZSITE system for each archeological site, whichever is applicable, or to complete a comparable record of any property that is neither a standing structure nor an archeological site.

5. Projections of the distribution and nature of historic properties that may exist on Depot lands, based on the synthesis and database, together with an estimate of the accuracy of the projections, and mechanisms for testing, refining, and verifying the projections to the extent needed through field survey and other further research.

6. Procedures for the identification and evaluation of historic properties that may be affected by activities at the Depot, providing for



identification and evaluation to take place in a timely manner during the planning of any actions that might affect historic properties.

7. Procedures for the management of historic properties within the Depot, including but not limited to:

i. Procedures for the use of historic properties for agency purposes or the purposes of others, in a manner that does not cause significant damage to or deterioration of such properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (b):

ii. Procedures for affirmatively preserving historic properties, with reference to the Section 110 Guidelines, Section 110(a)(1), Discussion (c):

iii. Procedures for the maintenance of historic properties, with reference to the Section 110 Guidelines, Section 110(a)(2), Discussion (c)(1)(i):

iv. Procedures for the avoidance or mitigation of adverse effects on historic properties, with reference to the Section 110 Guidelines, Section 110(a)(2), Discussion (d)(1)(iii): that ensure the Army's compliance with Section 106 of the National Historic Preservation Act without necessarily adhering to the procedural steps and standards set forth at 36 CFR 200 or in Chapter 3 of AR 420-40; and

v. Procedures for consulting with relevant parties during implementation of the IRMP, with reference to the Section 110 Guidelines, Part III, and specifically identifying circumstances under which the SHPO, a city, one or more Indian Tribes, or other interested parties will be consulted, and outlining how such consultation will be initiated and carried out.

#### ATTACHMENT 4

##### ACTIVITIES THAT NEED NOT BE REVIEWED BY THE SHPO UNDER 36 CFR 800

=====

1. Buildings: routine maintenance and in-kind repair of existing buildings.
2. Fences: routine maintenance and repair of fence currently installed.
3. Roads: routine maintenance and repair of existing roads and fire breaks.
4. Railroads: maintenance and repair of existing tracks and trestles.
5. Utilities: maintenance and repair of existing utilities, lines, poles, and meters. Includes electrical, natural gas, heating oil, water, waste water, storm drain, and deep well systems.
6. Sidewalks, curbs and gutters: maintenance, repair, or replacement of existing features.
7. Stock ponds and water reservoirs: maintenance and repair of existing features.
8. Environmental Restoration Projects: for remediation.
9. Troop Training: in existing training areas at existing levels, but not exempting tracked vehicle use, excavation of pits outside the established demolition area, or new road construction.
10. Demolition Operations: in existing Demolition Area.
11. Bridges: maintenance and in-kind repair of existing features.
12. Controlled burns: slash piles only.
13. Army Regulation 200-2 Categorical Exclusions: listed in attached "Appendix A."

#### ATTACHMENT 5

##### ARIZONA HISTORIC PROPERTY INVENTORY FORM

=====

ATTACHMENT 6  
AMENDMENT FORM

AMENDMENT

#

DATE:

MEMORANDUM OF AGREEMENT

BETWEEN THE DEPARTMENT OF THE ARMY,  
AND THE ARIZONA STATE HISTORIC PRESERVATION OFFICER  
CONCERNING CLOSURE OF THE NAVAJO ARMY DEPOT ACTIVITY

1. Need for Amendment:

(Describe briefly.)

2. Amendment:

(Specify.)

DEPARTMENT OF THE ARMY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Commander, Navajo Depot Activity

By: \_\_\_\_\_ Date: \_\_\_\_\_  
National Guard Bureau

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Paul W. Johnson  
Deputy Assistant Secretary of the Army for Installations and Housing

ARIZONA STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Shereen Lerner, PhD, State Historic Preservation Officer

ACCEPTED for the Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Executive Director

## **APPENDIX SIX: AGREEMENTS OR POLICIES REGARDING ACCESS OR CONSULTATION THAT ARE NOT SPECIFIC TO NATIVE GROUPS**

MOAs or MOUs regarding access to or consultation over archeological, historic, or cultural resources that incorporate Native American groups but that are not specific to them are listed below.

- 6.1 Memorandum of Agreement between the Department of the Army, the Advisory Council on Historic Preservation, and the California State Historic Preservation Officer on the conversion of Fort Irwin, California into the U.S. Army National Training Center and its effects on properties included in or eligible for the National Register
- 6.2 Memorandum of Agreement between Redstone Arsenal, Alabama and the Alabama Historic Commission regarding historic properties included in or eligible for the National Register
- 6.3 Memorandum of Understanding between Fort Carson, Colorado, Colorado State Historic Preservation Office, and the Advisory Council for Historic Preservation regarding historic properties included in or eligible for the National Register

Some facilities have policies regarding archeological, historical, or cultural resources that incorporate native groups as "interested parties." Letters of consultation resulting from facility policies regarding consultation with "interested parties" over archeological, historical, and cultural resources are listed below.

- 6.4 Letter of Consultation to the Yuchi Tribal Organization regarding looting of the Yuchi Town site on Fort Benning in accordance with NAGPRA
- 6.5 Letter of Consultation to the Mescalero Apache Tribe as part of the Environmental Impact Statement for the proposed White Sands Missile Range Aerial Cable Test Capability Project

# Council On Historic Preservation

# COPY

1522 K Street, NW  
Washington, DC 20003

## MEMORANDUM OF AGREEMENT

WHEREAS, the Department of the Army proposes to convert Fort Irwin, California, into the U.S. Army National Training Center and continue training there; and,

WHEREAS, the Army, in consultation with the California State Historic Preservation Officer (SHPO), has determined that this undertaking as proposed may have an adverse effect upon properties included in or eligible for the National Register of Historic Places; and,

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470f, as amended, 90 Stat. 1320), and Section 2(b) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment," the Army has requested the comments of the Advisory Council on Historic Preservation (Council) in accordance with the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and,

WHEREAS, representatives of the Council, the Army, and the California SHPO have consulted and reviewed the undertaking as proposed; and,

NOW THEREFORE, it is mutually agreed that the implementation of the undertaking, in accordance with the following stipulations will avoid, minimize, or mitigate the adverse effects.

### Stipulations

The Army will ensure that the following stipulations are carried out at Fort Irwin (hereafter "Installation").

- I. All survey, evaluations, data recovery, monitoring of land disturbing activities, or rehabilitation work performed in accordance with this Agreement will be conducted under the direct supervision of a person who meets at a minimum the appropriate professional qualifications set forth in 36 CFR Part 66 (Attachment I), and who has professional experience relevant to work in the California desert.
- II. The Army will ensure compliance with the Archeological Resources Protection Act of 1979 and will advise all users of the Installation against illegal collection of cultural materials and of the penalties for such collection imposed by the Act.
- III. Copies of all scopes of work, reports, plans, or other products generated under this Agreement will be provided to the California SHPO for review and comment.

U.S. Army  
Fort Irwin

- IV. An Historic Preservation Program for the Installation will be developed and implemented in consultation with the California SHPO and, as appropriate, historical architects, archeologists, or other historic preservation specialists. The Historic Preservation Program will be included as an element of the Installation Master Plan and will be used to guide installation and training exercise planning. In order to promote consistency in the treatment of cultural properties on the Installation, the Historic Preservation Program will be responsive to Army Technical Manuals TM58011, TM58012, and Technical Note No. 7817, dated September 15, 1978, until it is superceded by Army Technical Manual TM58013 (presently in draft form).

The Historic Preservation Program will include, but need not be limited to, the following elements:

1. a memorandum of understanding with the California Desert District office of the Bureau of Land Management (BLM) to ensure reciprocal coordination with BLM's management of the California Desert Conservation Area and the Army's management of cultural properties located on the Installation;
2. a cultural property overview and archeological research design(s) that identify the types of cultural properties expected to be found on the Installation; that sets forth research topics to be addressed; and that establishes survey and other investigation strategies for the identification and evaluation of such properties;
3. a strategy for completing the cultural property survey required by Section 2(a) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment." This will include:
  - a. assignment of all Installation land to land-use categories based on intensity of military use or land disturbing activities, such as planned construction and new training areas
  - b. establishment of survey priorities based on the land-use categories
  - c. a timetable for completion of the survey
  - d. a staffing and funding program
4. a procedure to be followed in determining historic and cultural properties eligible for inclusion in the National Register of Historic Places, which is consistent with 36 CFR 1204;
5. a procedure for reviewing actions to determine effects as defined in 36 CFR Sec. 800.3 of the Council's regulations on National Register or eligible properties;

U.S. Army  
Fort Irwin

6. a procedure for the preservation of affected National Register or eligible properties. This will include, but need not be limited to, the following:
    - a. an assessment of alternatives that would avoid project effects by project design, relocation or physical means such as signing, fencing, or patrolling
    - b. an assessment of alternatives designed to mitigate any adverse effects, where it is not prudent and feasible to avoid such effects
    - c. a process for selecting an appropriate alternative course of action (avoidance or mitigation) that includes consultation with the California SHPO. The Council will be afforded an opportunity to comment where (1) agreement cannot be reached with the California SHPO, (2) the affected property is of national significance (recognized as a National Historic Landmark, Site, Monument, or Trail), or (3) the affected property, beyond its historic or scientific value, has historic or cultural significance to a community, ethnic, or social group that would be impaired by its disturbance
    - d. standards and guidelines for archeological data recovery, that take into account the Council's "Recommendations for Archeological Data Recovery" (Attachment II)
    - e. a procedure to be followed, if after meeting all the responsibilities for identification of National Register or eligible properties, the Army finds or is notified after the undertaking has begun that the undertaking will affect a previously unidentified National Register or eligible property. This procedure should allow for delay of the undertaking, consultation with the California SHPO, and compliance with 36 CFR Sec. 800.7 of the Council's regulations;
  7. provision for curation of all specimens, field notes, photographs negatives, and processed data in a manner that makes them available for future study at an appropriately equipped institution that meets the standards set forth in Attachment #1 and that makes these data available to other parties for research or other appropriate purposes.
  8. provision for periodic review and refinement of the Historic Preservation Program in consultation with the California SHPO.
- B. After the Historic Preservation Program has been developed it will be submitted to the Council and the California SHPO for review. If after 30 days neither has provided written objection,



Memorandum of Agreement  
U.S. Army  
Fort Irwin

the program may be implemented. Once approved, should the Historic Preservation Program be modified, the Council and the California SHPO will be afforded an opportunity to provide written objections within 30 days after receipt of the modified program. Should the Council or the California SHPO object to the proposed Historic Preservation Program, or any subsequent modifications, the Army, California SHPO, and the Council will consult to resolve the objections.

- V. Within 180 days after ratification of this Agreement, the Army will submit a draft of the Historic Preservation Program to the Council and the California SHPO.
- VI. Until the Historic Preservation Program is implemented, and during any period when objections by the SHPO or the Council are unresolved, the Army will follow the procedure set out in 36 CFR Part 800.
- VII. Copies of all final technical reports will be furnished to the Council and to Interagency Archeological Services (National Park Service, Department of the Interior, Washington D.C. 20243) for possible submission to the National Technical Information Service (NTIS). Any precise locational data should appear in a separate appendix and may be withheld from NTIS publication pursuant to Section 11 of the General Authorities Act of 1970, as amended, (P.L. 94458).
- VIII. If any of the signatories to this Agreement determine that the terms of the Agreement cannot be met or believes a change is necessary, that signatory will immediately request the consulting parties to consider an amendment or addendum to the Agreement. Such an amendment or addendum will be executed in the same manner as the original Agreement.

Robert D. Jones (date) 198  
Executive Director  
Advisory Council on Historic Preservation

Jerome B. Holmes (date) 27 Aug 81  
Deputy Director for Facilities  
Engineering and Housing  
Directorate of Military Programs  
Office Chief of Engineers

James S. Bramlett (date) 17/8  
Commanding General, Fort Irwin  
U.S. Army

James E. Egan (date) 30/8  
California State Historic Preservation  
Officer

Alexander Aldrich (date) 9/17/81  
Chairman  
Advisory Council on Historic Preservation

## **Council On Historic Preservation**

1822 K Street, NW  
Washington, DC 20005

JUL  
8 1993

**AMENDMENT TO THE  
MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. ARMY, ADVISORY COUNCIL  
ON HISTORIC PRESERVATION, AND CALIFORNIA  
STATE HISTORIC PRESERVATION OFFICER  
CONCERNING  
THE NATIONAL TRAINING CENTER,  
FORT IRWIN, CALIFORNIA**

WHEREAS a Memorandum of Agreement providing for compliance with Section 106 of the National Historic Preservation Act in the development and management of the National Training Center (NTC) was ratified by the Chairman of the Advisory Council on Historic Preservation on September 17, 1981, and

WHEREAS the consulting parties have reviewed implementation of the Memorandum of Agreement and concluded that a change is necessary,

NOW, THEREFORE, pursuant to Section 800.6(c)(4) of the regulations (36 CFR Part 800), the subject Memorandum of Agreement is amended as follows:

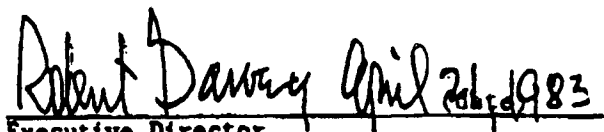
On page 4 of the Memorandum of Agreement, the language following the number "VI." is deleted and replaced with the following language:

"Until the Historic Preservation Program is implemented, the Army shall ensure that:

- (A) Archeological surveys are continued in a manner that takes into account the schedules and priorities of users of National Training Center (NTC) lands and the research topics outlined in Chapter 2 of the February, 1983 draft Historic Preservation Program (Draft HPP), with such amendments as may be agreed to by the consulting parties, with the understanding that complete, intensive field inspection of all installation lands or all lands within the Live Fire or Force-on-Force training areas is not required;
- (B) Archeological sites likely to contain information significantly bearing on the hypotheses set forth in Chapter 2 of Draft HPP, with such amendments as may be agreed to by the consulting parties, are considered eligible for the National Register of Historic Places under National Register Criterion (d) (36 CFR Sec. 60.6)) and, if subject to damage by users of NTC lands or by related activities, are either:
  - (a) reasonably protected in place through aptation in the electronic operations control system, fencing, signing, or other means, provided necessary NTC operations and operations of users of NTC lands are not unduly impeded, or

Page 2  
Amendment to MOA  
The National Training Center  
Fort Irwin, California

- (b) subjected to such excavation, analysis, or other form of data recovery as is sufficient to address the hypotheses set forth in Chapter 2 of the Draft HPP with such amendments as may be agreed to by the consulting parties, taking into account the Council's handbook entitled "Treatment of Archeological Properties";
- (C) Properties that may be damaged by the actions of users of NTC lands or related actions and that appear to be eligible for the National Register of Historic Places for reasons other than their pertinence to the hypotheses set forth in Chapter 2 of the Draft HPP are treated in accordance with applicable Army, Department of the Interior, and Advisory Council guidelines, in consultation with the California State Historic Preservation Officer, and
- (D) The Council is provided with periodic reports of progress, and afforded the opportunity to participate in review of ongoing survey, preservation, and data recovery operations."

  
Executive Director  
Advisory Council on Historic Preservation

  
Commander, National Training Center,  
U.S. Army

  
California State Historic Preservation  
Officer

  
Chairman  
Advisory Council on Historic Preservation

PROGRAMMATIC AGREEMENT  
AMONG THE DEPARTMENT OF THE ARMY, REDSTONE ARSENAL,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND  
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER  
FOR THE OPERATION, MAINTENANCE AND DEVELOPMENT  
OF  
THE REDSTONE ARSENAL, MADISON COUNTY, ALABAMA

WHEREAS, The Department of the Army (Army) has determined that continued operation, maintenance and development activities at Redstone Arsenal (RSA) will have an effect on properties on or eligible for inclusion to the National Register of Historic Places, and

WHEREAS, the Army has consulted with the Advisory Council on Historic Preservation (Council) and the Alabama State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 and 110.f of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f and 470h-2), and

NOW, THEREFORE, the Army, the Council, and the SHPO agree that operation, maintenance, and development activities at RSA shall be administered in accordance with the following stipulations to satisfy the Army's Section 106 and Section 110 responsibilities for all individual undertakings of the program.

Stipulations

The Army will ensure that the following measures are carried out at the Redstone Arsenal.

I. The plan for the management of historic, architectural and cultural resources (termed a Cultural Resources Management Plan in Army Regulation AR 420-40; herein termed "Plan") is attached as Appendix I and will be implemented by the Army at RSA, upon approval of the Alabama SHPO and the Council. The Plan includes, but is not limited to the following:

A. Overview. This includes a summary of the prehistoric and historic utilization and development of the lands within the project; a projection of the types and likely locations of historic properties that are expected to be found; a summary of past surveys on which these projections are based; possible research topics to be addressed; and other survey and investigation strategies for the identification and evaluation of historic properties.

B. Identification of properties. This includes full background information on the extent and methodology of all surveys conducted, a current inventory of all properties identified, and a strategy for the completion of the historic property survey, meeting the standards given in Stipulation III and setting forth:

1. Categories of land use within the RSA based on intensity of military industrial use or of land disturbing activities, such as planned construction and timber sale areas;

2. Recommended survey priorities based on changes in military industrial use and/or land use categories; and

3. Projected timetable for completion of the inventory.

C. Evaluation of properties. This includes the procedures to be used by the Army on the RSA for determining whether historic properties meet the eligibility criteria of the NRHP; and provides for consultation with the Alabama SHPO and, if necessary, the Secretary of Interior, as set forth in 36 CFR Part 800.4.

D. Treatment of properties. This includes procedures to be used by the Army at RSA for determining effects on NRHP or eligible properties and procedures for determining treatment of affected properties. The procedures for determining treatment will include, but not be limited to the following:

1. Consideration of protecting, preserving, and maintaining appropriate properties in place as part of the ongoing management of the RSA;

2. An assessment of alternatives that would avoid, lessen, mitigate or accept adverse effects through actions such as project relocation, project redesign, recordation of properties, data recovery, or loss;

3. Adherence to appropriate professional standards and guidelines, as set forth in Stipulation III, for archeological data recovery and for recordation of historic structures and buildings when historic properties will be altered or destroyed;

4. Provision for permanent curation, in Alabama if possible, of all specimens, field notes, photographs, negatives, and processed data at an appropriately equipped institution that meets the standards set forth in the Secretary of the Interior's Standards and that makes these data available to other parties for research or other appropriate purposes. The Army shall ensure that if any human remains and "Cultural Items" as defined in Section 2 (3) of the Native American Graves Protection and Repatriation Act of 1990 (P.L. 101-601) are curated in a repository qualifying as a "Museum" as defined in Section 2 (8) of the Graves Protection Act, the such items will be treated in accordance with Sections 5-7 of the Graves Protection Act.

5. Provisions for routine maintenance of all NRHP or eligible structures and buildings consistent with Army Technical Manual TM5-801-2 and the Secretary of the Interior's Standards for Rehabilitation;

6. A process for selecting an appropriate alternative that includes consultation with the Alabama SHPO and, if necessary, the Council. Consultation with the Alabama SHPO will address the justification for a

proposed alternative and justification for any deviation from the pertinent treatment standard. The Council will be consulted when agreement cannot be reached between the Alabama SHPO and the Army, when the historic property is of national significance or when beyond its cultural or scientific value the property is deemed to have important associative significance to the identity and culture of an existing, traditional community or ethnic or social group that would be impaired by a proposed alternative;

7. A procedure to be followed, if after meeting all the responsibilities for identification of properties, the Army finds, or it is notified after an undertaking has begun, that the undertaking will affect a previously unidentified NRHP eligible property at RSA. This procedure should permit delay of the undertaking, consultation with the Alabama SHPO, and compliance with Section 800.11 of the Council's regulations.

II. The Plan has been developed in consultation with the Alabama SHPO and the Council as follows:

A. The Council and Alabama SHPO will provide the Army with comments within 30 days of receipt of the draft Plan. The Army will take those comments into consideration in developing the final Plan.

1. Within a time period mutually agreed upon by the Army, the Alabama SHPO, and the Council, the Army will issue a final Plan with copies to the Council and the Alabama SHPO.

2. Should the Army desire to modify the Plan, the Council and the Alabama SHPO will be afforded 30 days in which to review and comment upon the proposed modifications.

B. The Army will consult with the Alabama SHPO and the Council in an effort to resolve any objections or respond to any comments received on the draft Plan.

C. Within 30 days of issuance of the final plan, the Army will initiate implementation of the Plan at the RSA.

III. Standards and Guidelines:

Standards and guidelines for implementing this Programmatic Agreement include, but are not limited to:

36 CFR 800: Protection of Historic Properties;

The Section 110 Guidelines: Guidelines for Federal Agency Responsibilities under Sec. 110 of the National Historic Preservation Act (53 FR 4727-4746);

The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-42), September 29, 1983.

Identification of Historic Properties: a Decisionmaking Guide for Managers  
(Advisory Council on Historic Preservation 1988);

Public Participation in Section 106 Review: A Guide for Agency Officials  
(Advisory Council on Historic Preservation, 1981) and;

Preparing Agreement Documents (Advisory Council on Historic Preservation, 1989)

IV. The Plan has been prepared by a person who meets the professional standards set forth in AR 420-40.

V. The Army will actively ensure compliance with the Archeological Resources Protection Act of 1979 (ARPA) and will advise all contract and RSA personnel and resident dependents against illegal collection of cultural materials and of the penalties for such collection imposed by the Act. Appropriate measures will be developed for the protection of archeological resources from looting and vandalism and for protection under ARPA.

VI. The Army will ensure compliance with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). An inventory of Native American human remains and associated funerary objects that have been obtained through archeological surveys and excavations at RSA will be completed within five years of enactment of NAGPRA (on or before November 16, 1995). Appropriate Native American tribal groups shall be consulted when human remains or associated funerary objects can be identified as to tribal origin. This consultation shall be initiated not later than 6 months after the completion of the inventory. A summary of unassociated funerary objects, sacred objects, or objects of cultural patrimony will also be prepared.

VII. Copies of reports, plans, or other products generated under this Programmatic Agreement and in the implementation of the Plan will be provided to the Alabama SHPO for review and comment. The Alabama SHPO will also be provided with copies of all site survey forms, U.S.G.S. topographic maps indicating areas actually surveyed and precise locational information of all recorded historic properties and any other relevant maps or documents.

VIII. Copies of any final technical reports will be furnished to the Alabama SHPO and the Defense Technical Information Center for submission to the National Technical Information Service. Locational information may be withheld from final technical reports that are likely to be available to the public, where release of such information might increase vandalism or misuse of a historic property.

IX. Until the Plan is implemented and during any period in which objections between the Army and the Alabama SHPO remain unresolved, the RSA will continue to follow the procedure set forth in 36 CFR Part 800.

X. An installation Cultural Resources Management Officer (ICRMO) will be designated to oversee the cultural resources management program at the RSA.

The ICRMO will receive appropriate training, including but not limited to, training offered by Headquarters, Department of the Army, The Council or the National Park Service to enable him or her to coordinate the RSA's compliance with AR 420-40. The RSA will insure that the ICRMO has access to professionals on staff or via contract who can provide levels and kinds of expertise appropriate to the RSA's cultural resources management needs, and who meet the Professional Qualifications Standards set forth in Appendix D of AR 420-40 for the professions they practice.

#### XI. Dispute Resolution

A. The Army and the SHPO shall together attempt to resolve any disagreement arising from implementation of this Programmatic Agreement. If the Army determines that the disagreement cannot be resolved, the Army shall request the further comments of the Council in accordance with 36 CFR Part 800.6(b). Within 30 days after receipt of all pertinent documentation, the Council will either:

1. Provide the Army with recommendations, which the Army will take into account in reaching a final decision regarding the dispute; or

2. Notify the Army that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the Army in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

B. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; the Army's responsibility to carry out all actions under this Programmatic Agreement that are not the subject of the dispute will remain unchanged.

C. Should a member of the public object to any measure carried out under the terms of this Programmatic Agreement, or the manner in which such a measure is implemented, the Army shall take the objection into account and consult as needed with the objecting party, the SHPO, and the Council to resolve the objection.

D. If any of the stipulations contained in this Programmatic Agreement cannot be met due to compliance with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (P.L. 101-601), then the Army shall immediately contact the SHPO and the Council to resolve the issue(s).

#### XII. Amendments

Any party to this Programmatic Agreement who determines that some portion of the Agreement cannot be met must immediately request the other signatories to consider an amendment or addendum to this Agreement which would ensure full compliance. Such an amendment or addendum shall be executed in the same manner as the original Programmatic Agreement. Should any party to this Programmatic Agreement be unable to maintain a level of effort sufficient to carry out the terms of this Agreement, that party shall notify the others and seek an appropriate amendment.



Execution of this Programmatic Agreement and carrying out its terms evidences that the Army has afforded the Council an opportunity to comment on the undertakings associated with the operation of the RSA and their effects on historic properties, and that the Army has taken, and will take, into account the effects of those undertakings on historic properties.

DEPARTMENT OF THE ARMY:

BY:

\_\_\_\_\_(date)\_\_\_\_\_  
Paul W. Johnson  
Deputy Assistant Secretary for Installations and Housing

REDSTONE ARSENAL

BY:

*William S. Chen* \_\_\_\_\_(date) *4 May 92*  
William S. Chen  
Major General, U.S. Army  
Commanding

ALABAMA STATE HISTORIC PRESERVATION OFFICER

BY:

*F. Lawrence Oaks* \_\_\_\_\_(date) *July 13, 1992*  
F. Lawrence Oaks  
Alabama State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY:

\_\_\_\_\_(date)\_\_\_\_\_  
John F.W. Rogers  
Chairman

FROM:

HISTORIC PRESERVATION PLAN FOR FORT  
CARSON MILITARY RESERVATION, COLORADO

DUPLICATE ORIGINAL

PROGRAMMATIC MEMORANDUM OF AGREEMENT

AMONG

THE UNITED STATES DEPARTMENT OF DEFENSE

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

AND THE

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

WHEREAS, the Department of Defense (DoD) has been directed by United States Senate Armed Services Committee Report 97-440 to the Military Construction Authorization Bill for 1983 to demolish World War II (1939-1946) temporary buildings (buildings); and

WHEREAS, these buildings were not constructed to be permanent facilities and were intended to be demolished; and

WHEREAS, DoD has determined that these buildings may meet the criteria of the National Register of Historic Places; and

WHEREAS, DoD has determined that its program of demolition of these buildings (program) may have an effect on their qualities of significance and has requested the comments of the Advisory Council on Historic Preservation (Council) pursuant to Section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. 4701) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800).

NOW, THEREFORE, DoD, the National Conference of State Historic Preservation Officers (NCSHPO), and the Council agree that the Program will be carried out in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

1. DoD will ensure that the following actions are carried out:

A. In consultation with the Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) (National Park Service, Washington, DC), DoD will develop documentation that includes:

1. A narrative overview of WW II military construction establishing the overall historical context and construction characteristics of each major type of building and including:

a. Explanation of the origins and derivations of the construction techniques and designs.

*ep*  
c/6/86

b. Chronology that summarizes the political and military decisions that affected scheduling, locations, quantity, design, and construction techniques. Photocopies shall be made of all military manuals used to guide significant aspects of design or construction.

c. Summary statements of major installations' WW II development including site plans, lists of buildings, photocopies of appropriate photographs, and evaluations of the significance of the various building types and groups.

2. Documentation of one example of all major building types that includes: drawings (title sheet, floor plans, sections, elevations, and isometrics of framing systems and other pertinent construction details), photographs (perspective corrected, large format negative and contact print), and appropriate explanatory data. All documentation shall meet NAB/MAER Standards for format and archival stability.

3. Submission of the above documentation to NAB/MAER, for deposit in the Library of Congress, not later than three years from the date of this agreement.

4. Development of the above documentation will be undertaken with periodic reviews by NAB/MAER to ensure that completed documentation will meet NAB/MAER Standards.

B. In consultation with the Council and the NCSHPO, DoD will select some examples of building types or groups to treat in accordance with historic preservation plans (HPP), until such time as demolished or removed from DoD control. The HPPs will be submitted to the Council and the NCSHPO within three years from the date of this agreement. Work done in accordance with the HPPs will require no further review by a SHPO or the Council.

C. All buildings that are identified within sixty days of the Federal Register publication of this Agreement by organizations and individuals will be considered by DoD in its selection of examples to be documented and/or treated in accordance with Stipulations A and B above.

D. Until the documentation program is completed and HPPs have been developed for the representative sample of building types and groups, DoD will continue its current program of building demolition with caution, avoiding disposal of obviously unique and well-preserved, original buildings that are not documented.

## II. NCSHPO agrees to:

A. Assist the appropriate SHPO in informing DoD within sixty days of the Federal Register publication of this agreement of buildings that they wish to have considered in the selection of examples to be documented and/or treated in accordance with Stipulations 1.A and 1.B.

OK  
6/6

3. Represent all SHPOs in the consultation on a selection of examples of buildings to be treated in accordance with Stipulation 1.3.

III. If any of the signatories to this Agreement determines that the terms of the Agreement cannot be met or believes that a change is necessary, the signatory will immediately request an amendment or addendum to the Agreement. Such an amendment or addendum will be executed in the same manner as the original Agreement.

EXECUTION of this Agreement evidences that DoD has afforded the Council a reasonable opportunity to comment on its program of disposal of temporary WW II buildings and that DoD has taken into account the effects of this program on historic resources.

*John W. Fowler* 7/2/86  
Executive Director, Advisory Council  
on Historic Preservation

Department of Defense

*Robert D. Baker* 7/7/86  
Chairman  
Advisory Council on Historic  
Preservation

Department of Army

*Charles E. Lee* 6/6/86  
President  
National Conference of  
State Historic Preservation  
Officers

Department of Navy

U. S. Marine Corps

*W. A. ...* 5/13/86  
Historic American Buildings Survey/  
Historic American Engineering Record

Department of Air Force

## Human Burial Policy

### Discovery and Removal of Human Burials

Human remains may be discovered in either of two situations. The first is that in which a burial is exposed and removed in the course of a planned data recovery program, for example, mitigative excavation of an archaeological site. The second situation is that in which remains are accidentally discovered in the course of an undertaking (emergency discovery situation). Certain procedures apply to all burial discoveries while others differ from one situation to the other.

The following general guidelines apply to all discoveries of human remains (Department of the Interior 1985):

(1) Where the disturbance involves marked or identified interments of human remains, the Army will make a reasonable effort to identify and locate individuals who can demonstrate direct kinship with the interred individuals. The Army will consult with such persons who respond to notification in a timely fashion, and through such consultation will determine the most appropriate treatment of the interments.

(2) Where the disturbance involves human remains known to have affinity to specific living groups such as federally recognized Indian tribes or ethnic groups, a reasonable effort will be made to identify, locate and notify leaders, officials, or spokespersons for these groups. In the case of Indian tribes, the Army will notify the recognized tribal governing body. As in (1) above, consultation resulting from such notification will affect decisions as to treatment of interments.

(3) Where the disturbance involves interments which the Army cannot identify with a specific Indian tribe, the Army will make a reasonable effort to notify groups who may be expected to have an interest in the disposition of the remains based on a professional determination of generalized cultural affinity. If such groups identify themselves as having such an interest, they will be provided a reasonable opportunity to consult with the Army in regard to appropriate treatment of the interment. If any group claims an affinity with the remains, the responsibility for documenting and validating that claim rests with the group.

(4) The Army (or its representative, e.g., private cultural resources contractor) will treat discovered human remains with dignity and respect until such time that they are reburied. Costs which accrue as a result of consultation, treatment, or curation will be

borne by the Army.

Human burials discovered in the course of a planned data recovery program are treated as part of the archaeological record. As such, they are excavated scientifically, analyzed, and repositied properly until they are reinterred (below). Burials discovered under these circumstances will, however, be reported immediately to the Fort Carson Office of Environment, Energy, and Natural Resources, who will in turn inform the SHPO. The process of applying the guidelines listed above may begin in full following termination of fieldwork.

Burials discovered in the course of an undertaking, e.g., training exercises or construction, are to be handled initially like any other emergency discovery situation (previous section). This process involves direct contact of the DCA by the Army, short-term significance assessment usually based on a field inspection, and commencement of mitigative procedures as needed (e.g., Butler et al. 1986). Guidelines for treatment of remains, as outlined above, are then to be followed.

#### Final Disposition of Human Remains

Federal agencies are currently permitted to develop their own policies regarding permanent disposition of burial materials. The Army at Fort Carson has adopted the policy that burials be reinterred in a designated area on the base. This procedure is to be followed in the future but must allow for full documentation and scientific study of the remains prior to reburial (e.g., Butler et al. 1986). Exceptions to this policy of reinterment at Fort Carson may result from notification of and consultation with families, Indian tribes, ethnic groups, etc., as described in the preceding guidelines.

#### National Emergencies and Natural Disasters

When applicable, the Army may opt to waive Section 106 requirements and instead comply with requirements of 36 CFR Part 78 (Waiver of Federal Agency Requirements under the National Historic Preservation Act). In only a very limited range of circumstances involving either major natural disasters or imminent threats to national security may 36 CFR Part 78 be invoked.

In the case where the President of the United States or the Governor of Colorado declares a disaster, the Army may notify the SHPO and the Advisory Council of any proposed, essential emergency action,

### Emergency Discovery Situations

The Army may on occasion discover new or additional cultural properties in the course of training or other undertakings after it has complied with Executive Order 11593 or ACHP Section 106 requirements. It is the responsibility of military field commanders (training actions) and Army supervisory or overseer personnel (non-training actions, e.g., construction and maintenance) to inform the Office of Environment, Energy, and Natural Resources of the discovery. In these instances the Army, acting through this office, will immediately and directly inform the Department of Interior's Department Consulting Archeologist (DCA) of the discovery, who under the terms of the Archeological and Historic Preservation Act must respond within 48 hours of notification. The DCA may render an immediate decision as to National Register eligibility but will ordinarily designate a representative to perform a field evaluation of the resource. The designated representative is usually from a National Park Service/Branch of Interagency Archeological Services office but may be from another agency.

The DCA's representative will conduct an on-site inspection and will invite the SHPO or his/her representative to attend. Whenever possible an immediate decision will be reached as to National Register eligibility and, if the property is deemed significant, the appropriate form of mitigation. If the SHPO is unable to participate in either the site evaluation or mitigation plan development process, he/she will be asked to comment on the plan after it is prepared by the DCA's representative. The Advisory Council is not ordinarily involved in emergency discovery situations but may be asked to arbitrate in cases when the DCA's representative and the SHPO are unable to agree on mitigative procedures.

The Army is obligated to comply with the decision as to eligibility and mitigation, and if mitigation is necessary, must appropriate significant funds that proper analysis and reporting may be conducted following field mitigation activities. It should be noted that, at the time that a cultural property is discovered, the Army is not obligated to cease the undertaking in progress, but must make every effort to prevent further damage to the resource until the DCA's field evaluation is complete and appropriate mitigative measures have been implemented and completed.



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS UNITED STATES ARMY INFANTRY CENTER  
FORT BENNING, GEORGIA 31905-5000  
December 26, 1991



Directorate of Engineering  
and Housing

Administrator  
Yuchi Tribal Organization  
P.O. Box 1990  
Sapulpa, OK 74067

Dear Sir:

As you may know, Fort Benning has the responsibility for protecting the many significant Native American sites located within its boundaries. This letter is to notify you and your organization that one such site, Yuchi Town, has been vandalized by looters. You are being notified in accordance with the Native American Graves Protection and Repatriation Act and will be given an opportunity to comment on our proposed plan of action to curtail this illegal and despicable activity.

As best as we can tell, the looting took place in August and September of this year and was discovered by our staff archeologist, Mr. Dean Wood. Our immediate objective was to catch the looters in the act and prosecute them under the Archeological Resource Protection Act. Accordingly, the area was placed under Military Police surveillance during the month of September and knowledge of the incident was restricted to the MP's and the Directorate of Engineering and Housing's Environmental Management Division. No one was apprehended; however, the looting stopped as a result of the increased monitoring by our personnel.

In October, a team of archeologists reexcavated a sample of the looters holes to evaluate the extent of the damage and ascertain if human remains were disturbed. We have just received the Draft Final Report from the archeological team who have determined that Native American graves belonging to 17th Century Apalacicola Indians and an 18th-19th Century Yuchi Indian were disturbed. A copy of the archeological draft report is included for your review.

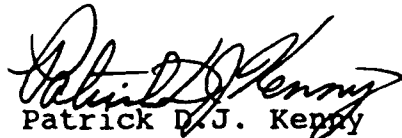
It is the intention of this installation to follow the recommendations set forth in the draft archeological report and to take a proactive position with regard to the protection of our shared cultural heritage. The desecration of Native American sites will not be tolerated on our Post. With this in mind, we propose the following actions for the Yuchi Town site:



- a. Increased monitoring by our staff archeologist and law enforcement personnel.
- b. Additional signs.
- c. Restoration of the site to include backfilling all open excavations.
- d. Removal of thick understory vegetation to aid monitoring efforts.
- e. Installation of intruder detection devices on site.
- f. Reburial of the human remains.

Toward this end, we invite your comments and participation. If you have any questions, please do not hesitate to call Mr. Dean Wood at (404) 545-4766. Your cooperation in this matter is greatly appreciated.

Sincerely,

  
Patrick D.J. Kenny  
Colonel, U.S. Army  
Director of Engineering  
and Housing

Enclosure

CF:  
SJA

## Environmental Office

APR 19 3 46 PM '91

*Example*

Mr. Wendell Chino, Tribal Chairman  
Mescalero Apache Tribe  
P.O. Box 176  
Mescalero, NM 88340

Dear Mr. Chino:

An Environmental Impact Statement is being prepared covering the proposed construction and operation of a project entitled : Aerial Cable Test Capability (ACTC) Project at White Sands Missile Range, New Mexico. Alternative locations are being analyzed; the preferred site is located in the vicinity of the southern Oscura Mountains and Mockingbird Gap. The project would use a 15,000 foot cable anchored on Oscura Mountain and extending to a lower anchor on the little Burro Mountains. The alternate location would have the cable anchored on top of Fairview Mountain and the 15,000 foot cable would extend west to a 1,000 foot tower for the lower anchor.

Attached are appropriate excerpts from the Preliminary Draft Environmental Impact Statement for the ACTC. Since this area lies within the known historic range of the tribe, we are consulting the tribe to identify any concerns you may have regarding the area and whether the tribe can identify sites of religious or cultural importance which must be protected in accordance with the American Indian Religious Freedom Act (PL 95-341).

Should your tribe identify such concerns in the area, please furnish specific details to this office within 30 days so that we may initiate further consultation to insure adequate protection. Specific locations and details of any sacred sites will be held in confidence and not released to the public. Your comments, unless you wish otherwise, will be included in the Draft Environmental Impact Statement, and you will be provided a copy of the DEIS. Should you have any questions regarding this action, please contact Mr. Robert J. Burton at (505) 678-2224.

William B. Christy  
Colonel, U.S. Army  
Director, Engineering, Housing  
and Logistics



EL-N

## FORT SILL — CHIRICAHUA — WARM SPRINGS — APACHE TRIBE

ROUTE 2 BOX 121 — APACHE, OKLAHOMA 73802

May 31, 1991

William B. Christy  
Colonel, U. S. Army  
Director, Engineering, Housing  
and Logistics  
Department of the Army  
U.S. Army White Sands Missile Range  
White Sands Missile Range, NM 88002

Dear Colonel Christy: *WBC*

Thank you for the opportunity to participate in the ACTC environmental impact statement.

Our Tribe was physically removed from our lands more than 100 years ago and, as a whole, has remained physically removed. This has made it very difficult for those Tribal members who had specific geographic information about cultural and religious sites to pass this information along to those who had never seen the area. As a result, specific details and locations of sacred sites are not currently available for large portions of our traditional territory.

Most sites of significance to our Tribe are not capable of being distinguished by the presence of man-made or natural features. Those which are, would most likely consist of anomalous piles of stone usually located on a high point or along a passage, areas of "rock art" (petroglyphs, pictographs, etc.), or natural caves, especially when associated with "rock art". I believe that the Tribe would prefer that any such sites remain undisturbed if encountered. The ACTC site does not appear to be close enough to sacred mountains to be a concern.

Sincerely,

*Leland Michael Darrow*

LELAND MICHAEL DARROW  
Tribal Historian

## FORT SILL APACHE SEAL

The seal has a picture of an Apache warrior as the main focus. The cactus and mountains symbolize the terrain in which the Apache are at home. The "Gode Eye" patterns symbolize the four directions and symbolize spiritual belief. The designs are representative of Apache beadwork designs. The crossed arrows represent peace and friendship. The eagle heads symbolize the freedom and dignity of Apache people.

**LIST OF NATIVE AMERICAN GROUPS WITH INTEREST IN SOUTHERN NEW MEXICO**

**Mr. Wendell Chino, Tribal Chairman**  
**Mescalero Apache Tribe**  
**P.O. Box 176**  
**Mescalero, NM 88340**

**Tortugas Indian Tribe**  
**Mr. Ernest Gonzales**  
**Nuestra Senora de Guadalupe Corporation**  
**P.O. Box 164**  
**Mesilla Park, NM 88046**

**Yaleta del Sur Pueblo**  
**Manny Silvas, Governor**  
**P.O. Box 17579**  
**El Paso, TX 79917**

**White Mountain Apache Tribe**  
**Reno Johnson, Tribal Chairman**  
**P.O. Box 1690**  
**White River, AZ 85941**

**San Carlos Apache Tribe**  
**Buck Kitcheyan, Tribal Chairman**  
**P.O. Box 0**  
**San Carlos, AZ 85550**

**Fort Sill Apache Tribe**  
**Michael Darrow, Tribal Historian**  
**Rt. 2, Box 121**  
**Apache, OK 73006**

**Tiwa-Manso & Piro Tribes**  
**Charles Madrid, Tribal Council President**  
**San Juan and Guadalupe Pueblos**  
**4028 San Ysidro Rd.**  
**Las Cruces, NM 88005**

**Pueblo of Isleta**  
**Mr. Alex Lucero, Governor (Albert Cherino, 1st Lt. Gov.)**  
**P.O. Box 317**  
**Isleta, NM 87034**

**Pueblo of Zuni**  
**Mr. Robert E. Lewis, Governor**  
**P.O. Box 339**  
**Zuni, NM 87327**

**Ramah Navajos, Ramah Chapter**  
**Ms. Martha Garcia, President**  
**Rt. 2, Box 13**  
**Ramah, NM 87321**

**APPENDIX SEVEN: ADVISORY COUNCIL ON HISTORIC PRESERVATION  
POLICY STATEMENT ON NATIVE AMERICAN CONSULTATION**

This document formalizes the Advisory Council's policy on consultation with Native American groups regarding archeological, historic, and traditional cultural properties.

# Advisory Council On Historic Preservation

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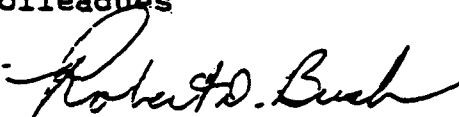
The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #809  
Washington, DC 20004

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June 17, 1993

## Memorandum

To: State Historic Preservation Officers  
Federal Historic Preservation Officers  
Tribal preservation officers and contacts  
Other interested colleagues

From: Executive Director 

Subject: Native American directions under the  
National Historic Preservation Act amendments of 1992

Action: Information only

**NHPA background.** As you know, the 1992 amendments to the National Historic Preservation Act of 1966 focussed additional attention on Native American concerns and participation within the national historic preservation program. The Council, which has long endorsed the significance of traditional cultural values (including those of Native Americans), and encourages the active participation of Native Americans in its regulatory process, is taking steps to respond specifically to this new legislative mandate.

**New Council policy statement.** At the June 10-11 meeting of the full Council membership in Mesa Verde, Colorado, the Council adopted a significant new policy statement, "Consultation with Native Americans concerning properties of traditional religious and cultural importance." It is attached for your information, as is a press releases which provides a bit more summary information. Previous Council policy statements related to this subject are included as well.

**Other informational materials concerning Native American issues.** I have also included for your reference the other Council informational piece which concerns Native Americans, a fact sheet first issued in 1988, "Section 106 Participation by Indian Tribes and Other Native Americans." This piece has also been recently updated.

**New Council member.** As you know, the 1992 amendments to the National Historic Preservation Act of 1966 also added a twentieth member to the Council, designated by statute to be a Native American or Native Hawaiian. This appointment has not yet been made to the Council by the White House, but we will notify you when this action has been completed.

**Council contact for Native American matters.** The Council's Western Office of Review has been designated as principal coordinator for Native American involvement in the Section 106 regulatory process. Should you have operational questions along these lines, please contact the Western Office of Review at 730 Simms Street, Suite 401, Golden, CO 80401; telephone 303-231-5320; FAX 303-231-5325. Legal questions on this subject are being handled by Katherine Barns Soffer at the Council's headquarters at 1100 Pennsylvania Ave., NW, Suite 809, Washington, DC 20004; telephone 202-606-8053; FAX 202-606-8672.

Thank you for your continued interest and cooperation.

Robert D. Bush

# Advisory Council On Historic Preservation

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The Old Post Office Building  
1100 Pennsylvania Avenue, NW, #809  
Washington, DC 20004

For more information, contact  
Elizabeth Moss (202) 786-0503

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June 21, 1993  
For Immediate Release

ADVISORY COUNCIL ON HISTORIC PRESERVATION  
SETS POLICY FOR  
NATIVE AMERICAN, NATIVE HAWAIIAN CONSULTATION

Washington, DC--At its June 11 meeting in Mesa Verde National Park near Cortez, Colorado, the Advisory Council on Historic Preservation adopted a new policy that strengthens Native American and Native Hawaiian participation in the historic preservation Federal regulatory process the Council administers, commonly known as Section 106 review.

The new policy reflects October 1992 amendments to the National Historic Preservation Act, which specifically state that properties of traditional religious and cultural significance--such as those particularly valued by Native American groups--may be eligible for the National Register of Historic Places, thereby removing any doubt that they are subject to the protections offered by Section 106 review. The amendments also direct Federal agencies in carrying out their responsibilities under Section 106 of the act to consult with any Indian tribe or Native Hawaiian organization attaching religious and cultural significance to such properties.



This policy approach reaffirms longstanding Council practice, which has emphasized consultation with Native American and Native Hawaiian groups in the identification and evaluation of historically and culturally significant properties.

#### About the Council

The Advisory Council on Historic Preservation serves as primary policy advisor to the President and Congress on historic preservation matters. It also administers the Federal Government's historic preservation regulatory system, which ensures that historic values are given due consideration in the planning of Federal projects or actions. This process is especially critical in the case of traditional properties of religious or cultural significance, given that they frequently involve values not easily conveyed and which may not be immediately recognized or understood by the Federal agencies charged with their protection.

#### About the policy statement

The policy statement acknowledges that traditional religious and cultural properties are essential to maintaining the cultural integrity of Indian tribes and Native Hawaiian organizations and critical to the cultural lives of many Native American communities. In order that the fundamental character of these properties be preserved, the Council recommends that its regulations implementing Section 106 of NHPA be applied flexibly and sensitively by all participants in the review process. The statement augments existing Council policy addressing Native American and Native Hawaiian concerns, including 1988 statements on pothunting and the treatment of human remains and grave goods.

#### Agreement for Medicine Wheel NHL

In Mesa Verde, the Council affirmed its commitment to these policies in executing an agreement for the short-term management of the Medicine Wheel National Historic Landmark, located in Bighorn National Forest, Wyoming. Ascribed spiritual and cultural significance by at least eight Native American groups across the Rocky Mountain region, the Medicine Wheel is threatened by the cumulative effects of cultural tourism, as well as Forest Service plans to upgrade visitor facilities. The case symbolizes the need for Federal agencies to take into account traditional cultural values in property-management decisions and illustrates how the Section 106 review process can be used toward that end.

#### Other action items

The Council also executed an agreement with the State of New Mexico substituting a State historic preservation review process for the Council's regulations; endorsed the completion of historic

preservation demonstration projects by Native American communities; requested the Secretary of Health and Human Services to defer action on the proposed addition to the Salk Institute Building in San Francisco, California, until the National Institutes of Health has had an opportunity to take into account the Council's comments; and urged the Administrator of the General Services Administration to postpone the proposed demolition of five historic bungalows on the Vista del Arroyo Hotel site in Pasadena, California, until he has had a chance to investigate the matter personally.

Council advises President, Congress

The 20-member Council was established by the National Historic Preservation Act of 1966. Its chairman is John C. Harper of Washington, DC, and its membership includes four historic preservation experts, four citizen members, a Native American or Native Hawaiian, a governor, a mayor, and four Federal agency heads, all appointed by the president. The Secretaries of the Interior and Agriculture, the Architect of the Capitol, the president of National Conference of State Historic Preservation Officers, and the chairman of the National Trust for Historic Preservation round out the Council. The Council is headquartered in Washington, DC. The Council's Western Office of Review (730 Simms Street, Golden, CO 80401) serves as the principal coordinator for Section 106-related Native American issues.

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**Advisory Council on Historic Preservation**  
**A compendium of policy statements:**

**NATIVE AMERICAN CONCERNS**

As early as the 1970s, the Council was involved in major Section 106 cases involving Native American issues. It was during the revision of its regulations following the 1980 NHPA amendments, however, that the Council first formally considered the policy implications of these issues. This fact sheet presents in reference form the Council's policies addressing Native American concerns.

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*Policy statement adopted by the full Council*  
*June 11, 1993, Mesa Verde, Colorado:*

**CONSULTATION WITH NATIVE AMERICANS  
CONCERNING PROPERTIES OF  
TRADITIONAL RELIGIOUS AND CULTURAL IMPORTANCE**

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**Background**

In amending the National Historic Preservation Act (NHPA) in 1992, Congress added Section 101(d)(6)(A), specifying that "properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian\* organization may be determined to be eligible for inclusion on the National Register (of Historic Places)." Congress also added Section 101(d)(6)(B), directing Federal agencies, in carrying out their responsibilities under Section 106 of the Act, to "consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A)."

This congressional direction confirms long-standing Council practice, which has emphasized consultation with Native American groups about the identification and treatment of historic properties significant in their histories and cultures in the context of the Section 106 review process. Such historic properties, known as "traditional cultural properties," are defined and discussed at length in a National Park Service publication, *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties*.

In issuing the following policy statement, the Council seeks to ensure that the intent of Congress, as expressed in the original preamble and the amendments to NHPA, is met by Federal agencies, State Historic Preservation Officers, the Council itself, and other participants in Section 106 review.

\* For the purposes of this policy statement, the term "Native American" refers to both Indian tribes and Native Hawaiian organizations.

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### Statement of Policy

**H**istoric properties with traditional religious and cultural importance ("traditional cultural properties") are essential to maintaining the cultural integrity of Indian tribes and Native Hawaiian organizations. Such properties are critical to the cultural lives of many Native American communities. To preserve the character of such properties in the context of Federal agency planning requires that all participants in Section 106 review carry out the requirements of the Council's regulations in ways that respectfully balance Native American cultural values with other public interests. The Council will, and other participants in Section 106 review should, interpret and use the Section 106 review process in a flexible manner that advances the goals of maintaining traditional cultural values and specific historic properties ascribed such values as "a living part of our community life" (16 U.S.C. 470(b)(2)), and fully take into account the effects of undertakings on such properties.

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### Implementation Principles

**The Council will, and other participants in Section 106 review should, be guided by the following principles in applying the policy set forth above:**

#### **Procedural flexibility**

The principles of regulatory flexibility set forth in Section 800.3(b) should be employed by the participants in the Section 106 process. Traditional cultural properties are an integral part of living communities and must be viewed in a culturally sensitive manner throughout the Section 106 process. Rigid adherence to the precise procedures in the regulations may be detrimental to the values that give a traditional cultural property its significance. Agencies should not require Native Americans to conform rigidly to procedures that may be alien to them, even though administrative procedures must be followed.

For example, requiring Native American religious practitioners to fully disclose their beliefs about a traditional place may, from their perspective, require them to violate tradition in a manner that they believe to be destructive to the place, their culture, and themselves.

Strict adherence to regulatory procedures must not be allowed to take precedence over respect for the rights and beliefs of Native Americans.

#### **Earliest reasonable involvement**

Communication with Native Americans should be initiated at the earliest stages of the Section 106 process.

Native American groups who ascribe cultural values to a property or an area should be identified by culturally appropriate methods.

Agencies should identify specific individuals and/or groups through discussions with tribal councils, other official points of contact, knowledgeable outside parties, and known or likely authorities on cultural matters within each potentially concerned group.

Agencies should understand that Native American groups not identified during the initial stages of the Section 106 process may legitimately request to participate in consultation later in the process.

## Meaningful consultation

It should be understood that the purpose of consultation is to elicit the concerns of groups, ensure full consideration of those concerns, and, if possible, arrive at decisions that respect those concerns and take them into account. In this respect, "the Council regards the consultation process as an effective means for reconciling the interests of the consulting parties" (36 CFR § 800.1(b)).

However, the requirement to consult with Native Americans is not a requirement that the agency always accede to their views. Recognizing the interest of a Native American group in a traditional cultural property does not confer right of ownership in the property.

## Culturally appropriate communication

Agencies should determine how to consult in a manner that will be effective, given the cultural values of the participating Native Americans. The consultation must be conducted in a realistic manner that is cognizant of the cultural values, socioeconomic factors, and administrative structure of the group(s). Participants in the Section 106 process should learn how to approach Native Americans in culturally informed ways. Specific steps should be taken to address such factors as language differences, economic circumstances, seasonal availability, or other constraints that may limit the ability of individuals and groups to participate and to respond in a timely manner.

## Early planning consideration

Agencies should consider the potential for effect on traditional cultural properties in determining whether an action is an undertaking, and again in establishing an undertaking's area of potential effect.

Actions that may have no potential for effect on other kinds of historic properties may have effects on traditional cultural properties. Moreover, such properties may be subject to a wide range of effects that must be considered in establishing the area of potential effect.

For example, the spraying of pesticides, which may not have the potential to affect other kinds of historic properties, can affect the ability of Native American basketmakers to use historic resource areas needed to continue their traditional work. Similarly, more distant undertakings that occur within the vicinity of a mountaintop on which Native American religious practitioners seek visions "may introduce audible, visual, or atmospheric elements that are out of character with the property or alter its setting" (36 CFR § 800.9(b)(3)), thus affecting the ability of practitioners to use the mountaintop for its historic, traditional use.

## Respect for religious and other cultural beliefs

Where the interests of a Native American group in a traditional cultural property are religious in nature, such as the need to perform ceremonies at a traditional cultural property, or the belief that the property played a role in the traditional creation of the group, participants in Section 106 review must respect such interests in accordance with the First Amendment to the U.S. Constitution and the American Indian Religious Freedom Act (42 U.S.C. §1996), while avoiding actions that could be taken to constitute the establishment of religion in contravention of the First Amendment.

The Council will, and other participants in Section 106 review should, interpret and use the Section 106 review process to advance the purpose of maintaining traditional cultural properties as "a living part of our community life" (16 U.S.C. 470(b)(2)).

## Legitimacy of confidentiality

Participants in Section 106 review should seek only the information necessary for planning in a manner that respects the Native American group's need for confidentiality.

The cultural values of many groups require that information on traditional cultural properties be kept secret or shared only with selected parties. As a result, it may be both ineffective and offensive to ask a Native American group to assist in identification of such properties.

For example, it may be unnecessary to define the precise boundaries of a traditional cultural property, or to describe in detail what uses of the property give it significance, as long as enough information is obtained to take into account effects on the property.

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*Policy statement adopted by the full Council  
September 27, 1988, Gallup, New Mexico:*

## POTHUNTING

**The Council deplores the destruction caused by pothunting and applauds the efforts of Congress, the agencies, the States, and the Tribes to contend with it.**

The Council supports in principle legislative and educational efforts to address the pothunting problem.

However, the Council also understands the desire to search out, study, appreciate, and possess artifacts and art objects, which directly or indirectly motivates pothunting.

The Council expresses its strong support for, and encouragement of, efforts by the Department of Justice, the various United States Attorneys, and other Federal and State agencies to bring to justice and prosecute to the full extent of the law all violators of Federal and State laws protecting historic, archeological, and other cultural resources.

However, the Council recognizes that it is unlikely that police action alone will control pothunting on Federal and Indian lands, and that since pothunting occurs on other lands as well, increased enforcement on Federal and Indian lands may only increase pothunting elsewhere.

Accordingly, the Council encourages cooperative efforts among Federal agencies, States, Indian tribes, archeologists, art and artifact dealers, artifact collectors, and other interested parties to seek mutually agreeable means of reducing pothunting while ensuring those interested in finding, studying, enjoying, and possessing artifacts the continued opportunity to do so.

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*Council policy statement adopted by the full Council  
September 26, 1988, Gallup, New Mexico:*

## **TREATMENT OF HUMAN REMAINS AND GRAVE GOODS\***

**While human remains or grave goods are likely to be exhumed in connection with an undertaking subject to review under Section 106 of NHPA, the consulting parties under the Council's regulations should agree upon arrangements for their disposition that, to the extent allowed by law, adhere to the following principles:**

Human remains and grave goods should not be disinterred at all unless required in advance of some kind of disturbance, such as construction.

Disinterment when necessary should be done carefully, respectfully, and completely, in accordance with proper archeological methods.

In general, human remains and grave goods should be reburied in consultation with the descendants of the dead.

Prior to reburial, scientific studies should be performed as necessary to address justified research topics.

Scientific studies and reburial should occur according to a definite, agreed-upon schedule.

Where scientific study is offensive to the descendants of the dead, and the need for such study does not outweigh the need to respect the concerns of such descendants, reburial should occur without prior study. Conversely, where the scientific research value of human remains or grave goods outweighs any objections that descendants may have to their study, they should not be reburied, but should be retained in perpetuity for study.

\* In 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) became law. Application of this policy statement must be consistent with the requirements of NAGPRA (25 U.S.C. Part 3001 et seq).

## **APPENDIX EIGHT: VANDENBERG AIR FORCE BASE EXAMPLE DOCUMENTS**

Vandenberg Air Force Base has developed a comprehensive program involving the Santa Ynez Band of Mission Indians and incorporating both representatives of the tribal council and individual tribal members. A collection of the documents created in this program are included here to illustrate the development of the program and demonstrate the extent of interaction involved.

- |      |      |  |
|------|------|--|
| 8.1  | 1992 | Letter to Grant Access to North Vandenberg AFB                           |
| 8.2  | 1991 | Memorandum of Understanding  |
| 8.3  | 1991 | USAF News Release Concerning Reburial Agreement                          |
| 8.4  | 1991 | Letter of Communication  |
| 8.5  | 1977 | Tribal Contacts  |
| 8.6  | 1988 | Historic Preservation Plan   |
| 8.7  | 1988 | Announcement of Tribal Elders Council Meeting                            |
| 8.8  | 1988 | Elders Council Decision Regarding Burial Remains                         |
| 8.9  | 1988 | Authorization for Plant Collection                                       |
| 8.10 | 1988 | Letter of Communication  |
| 8.11 | 1987 | Memorandum of Understanding  |
| 8.12 | 1987 | Internal Air Force Letter  |
| 8.13 | 1987 | Letter of Communication  |
| 8.14 | 1986 | Memorandum of Understanding  |
| 8.15 | 1985 | Letter Regarding Tribal Federal Recognition Status                       |
| 8.16 | 1985 | Tribal Council Resolution  |
| 8.17 | 1984 | Vandenberg Policy Regarding Participation of American Indian<br>Advisors |
| 8.18 | 1984 | Letter Regarding Corps of Engineers Archaeological Contract              |
| 8.19 | 1984 | HQ USAF/LEE Policy and Guidance on Native American Interests             |
| 8.20 | 1981 | Memorandum of Agreement  |
| 8.21 | 1981 | Ethnographic Study Report: MX Missile Testing System                     |
| 8.22 | 1978 | Letter of Communication  |
| 8.23 | 1978 | Memorandum of Understanding  |



DEVH file 3F  
SNB

2 APR 1992

G2 J  
DEV JB  
3/2/92

DEVN mfm

DEVH ~~SNB~~

Ms Juanita Centeno  
103 Cabrillo Lane  
Santa Ynez CA 93460

Dear Ms Centeno

You are granted access to North Vandenberg Air Force Base to collect plants until March 1993. You must not collect the candidate threatened and endangered plants listed on the attachment. These plants are protected on Vandenberg. A copy of this letter will be on file with our Visitor Control Center where a temporary day pass will be issued to you. The following stipulations also apply:

a. You must carry a copy of this letter with you during your visits to Vandenberg.

b. If you happen to be on base during a hazardous or security operation, you will be asked to depart the area. To avoid this, I request that you contact our Public Affairs Office at (805) 734-8232, ext 6-5816, prior to your visit so any conflict may be avoided.

If you require any additional time to collect vegetation, please contact Mr Larry Spanne at 30 CEG/DEVH, (805) 734-8232, ext 5-0748.

Sincerely

-signed-

R. P. JONES, Colonel, USAF  
Director, Environmental Management

1 Atch  
Plant List

cc: 30 SPS/CC

AFD: a:spa/acc.nb/hv

CANDIDATE THREATENED AND ENDANGERED  
Plants

---

<u>Common Name</u>	<u>Scientific Name</u>	<u>Habitat</u>
*Shag Dark Manzanita (C)	<u>Arctostaphylos rudis</u>	Burton Mesa Chaparral, Coastal Scrub
*La Graciosa Thistle (C)	<u>Cirsium loncholepis</u>	Coastal Dunes
*Surf Thistle (C)	<u>Cirsium rhotophilum</u>	Coastal Dunes
*Seaside Bird's-Beak (C)	<u>Cordylanthus rigidus</u> ssp. <u>littoralis</u>	Burton Mesa Chaparral
*Beach Spectacle Pod (C)	<u>Dithyrea maritima</u>	Coastal Dunes
*Lompoc Yerba Santa (C)	<u>Eriodictyon capitatum</u>	Burton Mesa Chaparral, Bishop Pine Forest
*Beach Layia (C)	<u>Layia carnosae</u>	Coastal Dunes
*Crisp Monardella (C)	<u>Monardella crista</u>	Coastal Dunes, Dune Scrub, Coastal Sage Scrub
<hr/>		
*San Luis Obispo County Monardella (C)	<u>Monardella undulata</u> var. <u>frutescens</u>	Coastal Dunes, Dune Scrub
*Black-Flowered Figwort (C)	<u>Scrophularia atrata</u>	Coastal Dune, Dune Scrub, Coastal Sage Scrub
*Aphanisma (C,	<u>Aphanisma blitoides</u>	Coastal Scrub
*Gambel's Water Cress	<u>Rorippa gambellii</u>	Barka Slough
*Hoffmann's Sanicle (C)	<u>Sanicula hoffmannii</u>	Coastal Sage Scrub

MEMORANDUM OF AGREEMENT BETWEEN  
VANDENBERG AIR FORCE BASE,  
THE SANTA YNEZ BAND OF MISSION INDIANS,  
AND  
THE ELDERS COUNCIL

I. THE PARTIES: The parties to this agreement are Vandenberg Air Force Base (VAFB) and the Santa Ynez Reservation (SYR). VAFB is the owner and occupant of the property subject to this agreement. The SYR is the federally recognized representative of the Santa Ynez Band of Mission Indians with a Chumash tribal affiliation.

II. STATEMENT OF NEED: Native American and other human remains (remains) are continually uncovered at various sites on VAFB due to construction activities and wind and water erosion. These sites are accessible to most personnel authorized access to VAFB and are used for recreational purposes. Consequently, exposed remains are subject to damage, destruction and/or vandalism if they are not properly protected.

III. STATEMENT OF PURPOSE: The purpose of this agreement is to ensure that discovered remains are properly protected, identified and reburied in compliance with applicable federal laws. The agreement will also provide a consistent mechanism for both VAFB and the SYR to facilitate this process in a way that is sensitive to the needs of the SYR and VAFB.

IV. STATEMENT OF AGREEMENT BY VAFB:

A. When remains are discovered on VAFB, personnel in the Directorate of Environmental Management, Historical and Cultural Resources Division (WSMC/ETH or its successors), shall ensure the remains are recovered and identified, using the expertise of Dr. Phil Walker, Physical Anthropologist, University of California at Santa Barbara (UCSB) (or successors or mutually agreeable substitute).

B. When the remains are identified as Native American, WSMC/ETH shall notify the Chairman (or designee) of the Santa Ynez Band of Mission Indians, SYR, of the discovery, and the State Historic Preservation Officer (SHPO).

C. On a case-by-case basis, VAFB and the SYR will jointly determine where remains identified under paragraph IVB above shall be reburied on VAFB property. Reburial sites will be selected with a strong preference for reburial near the site of discovery. Reburial shall not occur within construction areas, in identified archaeological or cultural resource sites, or in areas that may interfere with VAFB's national security or military missions.

D. VAFB shall keep such records of the discovery and reburial sites as may be required, including but not limited to ethnic certifications and shall make such records available to the SYR and other authorized parties.

V. STATEMENT OF AGREEMENT BY THE SYR:

A. When notified of the identification of Native American remains requiring reburial, the SYR agrees to jointly determine where remains identified pursuant to paragraph IVB above shall be reburied on VAFB property. Reburial sites will be selected with a strong preference for reburial near the site of discovery. Reburial shall not occur within construction areas, in identified archaeological or cultural resource sites, or in areas that may interfere with VAFB's national security or military missions.

B. The SYR agrees to rebury any identified Native American remains at no expense to the United States Air Force (USAF) or VAFB. The SYR expressly recognizes that neither the USAF or VAFB shall in any way fund reburial. This provision shall not be interpreted to nullify or contradict Air Force contract provisions requiring contractors to employ and reimburse Native Americans for oversight or monitoring activities.

VI. DURATION OF AGREEMENT: The parties agree that this agreement shall remain in effect for as long as is necessary to accomplish its purposes.

VII. CANCELLATION: Either party may terminate this agreement with 30 days advance written notification.

VIII. ACCESS: VAFB agrees to provide reasonable access for the SYR to carry out its obligations under this agreement, subject to national security and military mission requirements. Requests for access shall be accommodated through WSMC/ETH.

IX. STATEMENT OF AUTHORITY: VAFB enters this agreement pursuant to the following: The National Historic Preservation Act, 16 U.S.C. Section 470; The Antiquities Act, 16 U.S.C. Section 469; The Archaeological Resources Protection Act, 16 U.S.C. Section 470aa-11; The National Environmental Policy Act, 42 U.S.C. Section 4231; The Historic Sites Act, 49 Stat. 666; The Archaeological and Historic Preservation Act, 16 U.S.C. Section 469; The American Indian Religious Freedom Act, 42 U.S.C. Section 1996; and Executive Order 11593 (May 13, 1971). The SYR enters this agreement pursuant to The Indian Reorganization Act, 25 U.S.C. Section 461 and its Articles of Association, February 7, 1964.

X. SEVERABILITY: If any of the provisions of this agreement are found by a court of law to be invalid or of no force or effect, the validity of all other provisions shall be unaffected.


XI. AMENDMENT: Except as expressly provided in this agreement, no changes in this agreement shall be valid unless made in writing and signed by the parties to the agreement. No oral understanding or agreement not incorporated in this agreement shall be binding on either of the parties.

XII. FUNDING:


A. By entering into this agreement, VAFB is not in any way obligating expenditure of funds. Any VAFB activities necessary for accomplishing the purposes of this agreement are subject to the availability of authorized and appropriated funds.

B. By entering into this agreement, the SYR is committing to expend funds as necessary to accomplish its obligations under this agreement.

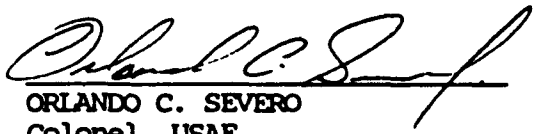
XIII. SIGNATURES:

  
DAVID DOMINGUEZ  
Chairman, Santa Ynez Band of Mission Indians  
Santa Ynez Reservation

8-20-91  
(Date)

  
GEORGE ARMENTA  
Chairman, Elders Council  
Santa Ynez Reservation

8-20-91  
(Date)

  
ORLANDO C. SEVERO  
Colonel, USAF  
Commander  
Western Space and Missile Center  
Vandenberg AFB, CA

8-20-91  
(Date)

# United States Air Force

## NEWS RELEASE

Public Affairs Office, Western Space and Missile Center, Vandenberg AFB, Calif. 93437-5000 (805) 866-3595

Release 91-08-01

Contact 1Lt. Tracy O'Grady (805) 866-3595

Vandenberg AFB, Calif. -- A historic agreement has been concluded between the United States Air Force, Santa Ynez Band of Mission Indians and the Tribal Elders Council.

The agreement covers the reburial of Chumash ancestral remains discovered in the future on Vandenberg Air Force Base.

The agreement was signed during a ceremony at the Santa Ynez Reservation Community Center on Tuesday evening by Western Space and Missile Center Commander, Colonel Orlando C. Severo Jr.; Santa Ynez Band Chairman, David Dominguez and Elders Council Chairman, George Armento. The agreement establishes procedures that will ensure human remains, which are occasionally discovered on Vandenberg are properly identified and reburied with appropriate dignity and respect in accordance with federal and state law.

Historic and prehistoric human remains and artifacts on all federally controlled lands are protected by federal law. In California, all such remains are protected by state laws which require that positive identification be made by the county coroner's office.

Last November, President Bush signed the Native American Grave Protection and Repatriation Act which, when final regulations are issued, will dramatically extend the safeguards afforded these sensitive remains.



# COORDINATION AND FILE COPY

FILE COL  
ETH FILE  
2A 208

ET *Myers*

ETD

21 MAR 1991

ET2 *[Signature]*

ET3

ETI

ETR

ETA *[Signature]*

ETC

ETE

ETH *[Signature]*

ETJ *[Signature]*

ETN

ETP

ETT

Mr Larry Myers  
Executive Secretary  
Native American Heritage Commission  
915 Capitol Mall, Room 228  
Sacramento CA 95814-0001

Dear Mr Myers

Last November I mailed you a copy of a Draft Memorandum of Agreement (MOA) between Vandenberg Air Force Base and the Santa Ynez Chumash Indian Reservation. We are anxious to finalize the MOA and to consider any comments you may have for the final draft. In order for the latter to occur, we must receive your comments by April 15, 1991 as we intend to finalize the document shortly thereafter.

*Protection*

We are aware that the Native American Graves and Repatriation Act, signed by President Bush last November, may affect the disposition of Native American remains on Vandenberg. However, the implementing regulations for this Act have not yet been promulgated and will not be available for some time. When we receive these regulations, we will review and revise the MOA as required to conform with the Act. At that time you will be afforded another opportunity to comment. If you have any questions, please contact me or Mr Larry Spanne at (805) 866-1922.

*Daryl A. Atwood*  
DARYL A. ATWOOD, Colonel, USAF  
Director, Environmental Management

cc: HQ AFSPACECOM/DEPV  
WSMC/CV  
9 SD/LGF

RETURN TO:	FUNC ADDRESS SYM	ORIGINATOR'S NAME AND GRADE	PHONE NO	TYPIST INITIALS	DATE TYPED	FILE NAME
	ETH	Spanne	61922	SM	3/19/91	0314MOA

OHLONE INDIAN  
CONTACTS FOR OUR  
PILLAR POINT FACILITY  
IN SAN MATEO COUNTY  
(SAN FRANCISCO AREA)

**OHLONE FAMILIES  
CONSULTING SERVICES**

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# TRIBAL ELDERS COUNCIL

## Santa Ynez Chumash Indian Reservation

P.O. Box 365 • Santa Ynez, California 93460  
(805) 688-8446

### ELDERS COUNCIL

George Armenta, Chairman  
Margaret Cash  
Loretta Murillo  
Charles Ochoa  
Grace Romero-Pacheco

July 6, 1990

### SANTA YNEZ BAND OF MISSION INDIANS NATIVE AMERICAN CONSULTANTS LIST OF NAMES AND SOCIAL SECURITY NUMBERS

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CASH, Margaret	558-46-6827
CARRILLO, Julio	555-60-5380
COTA, Victor	570-50-7514
CRUZ, Amado	570-04-1476
GOMEZ, Vince	557-56-4187
MANGURAY, Vincent	568-41-9201
MIRANDA, Carolyn	545-92-9090
QUIROGA, Rosemary	553-58-2511
RIVERA, Tim	557-80-7508
ROMERO, Alfred	560-48-2061
ROMERO, Rosalie	555-98-7430
SCHNEIDER, Theresa	556-67-4080
SHOLLY, Aurora	568-66-9541
TRIPP, Elise	567-41-3641
GUTIERREZ, Maria (Christina)	570-04-1477
PALATO, Inez	562-62-3721

**HISTORIC PRESERVATION PLAN  
SAN ANTONIO TERRACE NATIONAL REGISTER DISTRICT  
VANDENBERG AIR FORCE BASE, CALIFORNIA**

**Prepared for**  
**United States Air Force**  
**AFRCE-BMS**  
**Norton Air Force Base, California**

**By**  
**Tetra Tech, Inc.**  
**San Bernardino, California**

**December 1988**

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Purpose and Management Philosophy of the Historic Preservation Plan

This document constitutes a Historic Preservation Plan (HPP) for the San Antonio Terrace Archaeological District (Figure 1.1-1). This district was created by the Air Force to facilitate management because most archaeological sites in the district contain data relevant to a common research theme. The district includes that part of north Vandenberg Air Force Base (AFB) which could be affected by the construction and operation of various Intercontinental Ballistic Missile (ICBM) test programs. These include the current Peacekeeper Rail Garrison and the Small ICBM programs. Some test facilities, including structures, a launch pad, and roads and communication lines, have already been built. Proposed new construction includes an additional launch pad, structures, roads, and railroad track.

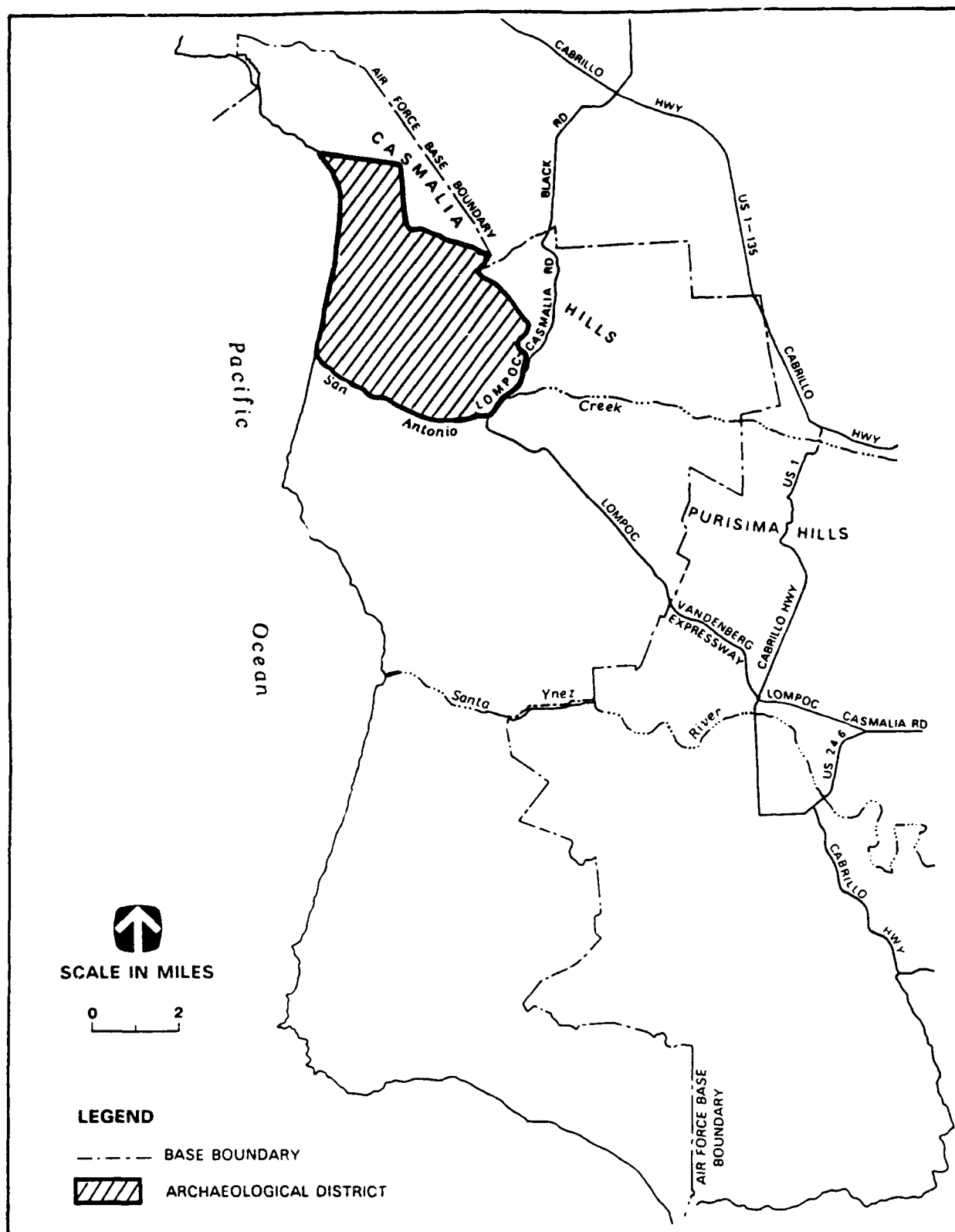
Although the ICBM projects provided the impetus for formation of the district, the HPP guidelines will apply to any future projects affecting cultural resources within the district. The guidelines will be applied on a project-by-project basis to any affected areas within the district. The lead agency for each project is responsible for complying with the guidelines.

The HPP is part of the Preservation Planning in Context process suggested by the Advisory Council on Historic Preservation (ACHP) (1985) to help comply with the ACHP's regulations for major projects in advance of identification of specific properties eligible for inclusion in the National Register of Historic Places (NRHP). The HPP specifies strategies for identification, evaluation, and treatment of cultural resources within a district which has already been determined eligible for the NRHP, though many of the sites within the district have not been evaluated individually. The strategies for identification, evaluation, and treatment are based on an overview of previous research in the area. The overview establishes a context for preparation of a research design and definition of site types. Individual sites can then be evaluated and treated in accordance with established procedures which specify the potential of each site type to address questions contained in the research design.

The Planning in Context process fulfills Section 106 requirements by affording the State Historic Preservation Officer (SHPO) and the ACHP an opportunity to comment on one document in advance of construction, rather than a series of determinations of eligibility, determinations of effect, and treatment plans for individual sites as specific construction effects are identified. As the ACHP has noted, the latter process often occurs too late in planning to reduce adverse effects on eligible cultural resources, "because the critical allocation decisions have already been made" (Advisory Council on Historic Preservation 1985:2).

The HPP constitutes a specific planning document for use by base resource managers in making decisions about how to treat cultural resources. These decisions are based on the evaluation of a given resource to determine its research potential. Evaluation is the most critical step in the preservation planning process. The many discussions of archaeological site significance (Butler 1987; Dunnell 1984; Fowler 1982; Glassow 1977; King and Lyneis 1978; Raab and Klinger 1977, 1979; Schiffer and Gumerman 1977; Sharrock and Grayson 1979; Tainter and Lucas 1983) have established that significance is based mainly on the potential of the site to contribute data to important research questions. This is the logical outcome of applying Criterion D of the NRHP significance criteria (Code of Federal Regulations 1981, 36 CFR 60.4). Criterion D states that sites are significant "that have yielded, or may be likely to yield, information important in prehistory or history."





ASC-146/1 RLG-26/1

FIGURE 1.1-1 LOCATION OF SAN ANTONIO TERRACE ARCHAEOLOGICAL DISTRICT, VANDENBERG AFB. CALIFORNIA

There are two schools of thought which influence significance evaluations: the particularist view and the populationist view (Aten 1982:234). Adherents of the particularist view tend to see each site as unique, and therefore, significant. Thus, for almost every site, a case for eligibility can be made. However, once almost every site is determined eligible, each site is afforded the same administrative and legal status. As Aten (1982:233) points out, "ascribing the same administrative and legal due process to all of the important sites as an undifferentiated group poses awesome logistical questions." The question then becomes whether it is necessary to preserve every eligible site or conduct expensive data recovery at each site which cannot be preserved. In most cases, funding or time limitations require decisions to be made about where to concentrate efforts. Such decisions should be based on the theoretical and substantive knowledge of the discipline (Butler 1987:821). Knowledge about certain topics may be well developed while little is known about other topics. Therefore, effort would be better expended on sites containing data relevant to the topics about which little is known, rather than recovering redundant data pertaining to well-studied topics (Butler 1987:824). Aten (1982:234) and Thompson (1982:45) have both argued that if archaeologists refuse to make decisions about where to concentrate data recovery efforts, administrators and planners with little archaeological training will make these decisions without reference to objective archaeological criteria. Thompson (1982:43) notes that archaeologists "have avoided difficult decisions by insisting that all sites are equal instead of recognizing that some sites are more equal than others."

The alternative populationist view maintains that sites are seen as representatives of a group. Such groups are based on contexts developed through overviews and evaluations of the theoretical and substantive knowledge of regional prehistory. Such groups, classes, or types of sites "are the only practical contexts for making administrative decisions about predicting the existence of sites, for establishing contextual criteria for determining what is an important site and for making sensible judgments about which sites and data need to be protected" (Aten 1982:234). Once site types are defined, testing can be directed toward the specific problem of determining to what site type a site belongs, rather than to the more general problem of eligibility. When site type is determined, the appropriate treatment for that site type can be applied during mitigation.

The populationist view is advocated in federal cultural resource management guidelines provided by the Secretary of the Interior (Federal Register 1983) and the ACHP (1985). The present document was prepared following these guidelines. The first part of this plan contains an overview of previous research to provide historic context. Historic context is defined as "a unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area" (Federal Register 1983:44739). Once historic contexts (in this case, the contexts are largely prehistoric) are established, property types (site types) are defined. A property type "is a grouping of individual properties based on shared physical or associative characteristics. Property types link the ideas incorporated in the theoretical historic context with actual historic properties that illustrate those ideas" (Federal Register 1983:44719). A research design is presented which identifies important regional research questions. Each site type is then evaluated to determine its potential to contribute data relevant to the research questions. Treatment plans are presented for each site type to preserve or recover an appropriate sample of these data. Using this approach, it is not necessary to evaluate individual sites for eligibility. Instead, sites are tested to determine site type and the appropriate treatment for that site type is prescribed.

## 1.2 Current and Projected Land Use

San Antonio Terrace has been designated as the testing area for both the Peacekeeper Rail Garrison and Small ICBM programs. Test facilities for both programs already exist on the terrace and additional facilities will be constructed in 1988. Existing and proposed facilities include structures (e.g., Missile Assembly Building, stage processing facilities, Integration and Refurbishment Facility, launch pads, and a Train Alert Shelter), railroad lines, communication lines, utility lines, and roads. Most of these facilities are located or will be built within the dune area of San Antonio Terrace. In addition to these facilities, a 90-acre Mobility Study Area is proposed for the northeast part of the terrace outside of the dune area and an Alternate Launch Facility may be built on the east side of Point Sal Road north of Shuman Canyon. The proposed locations for these facilities are also within the district.

## 1.3 Location

The San Antonio Terrace Archaeological District is located on San Antonio Terrace in the northern part of Vandenberg AFB, California. San Antonio Terrace is south of Shuman Canyon, east of the Pacific Ocean, north of San Antonio Creek, and west of Lompoc-Casmalia Road (Figures 1.1-1 and 1.3-1). The district also includes part of the southwest flank of the Casmalia Hills north of Shuman Canyon. Impacts of ICBM testing programs are anticipated in three areas: the San Antonio Dunes area, the Mobility Study Area, and the Alternate Launch Facility (Figure 1.3-1).

The San Antonio Terrace Archaeological District boundaries shown in Figure 1.3-1 are defined as follows:

- West: Pacific Ocean.
- South: San Antonio Creek.
- East: From a point on San Antonio Creek near the intersection of Lompoc-Casmalia Road and (East) San Antonio Road, proceeding north on Lompoc-Casmalia Road approximately one mile to Curly Road and then following Curly Road northwest to El Rancho Road. The district boundary follows El Rancho Road northwest to the road's closest approach to the Vandenberg AFB boundary. The district boundary follows the base boundary north to Point Sal Road.
- North: From the base boundary on Point Sal Road west to the intersection with El Rancho Road, then north to Building 1959 near the end of Globe Road, then west to Lions Head benchmark (457 ft), and from there to the nearest point on the Pacific Coast.

The boundaries encompass an area of sand dunes overlaying a Pleistocene terrace. Most of the dunes are stabilized by vegetation and are less than 2,000 years old (Johnson 1984). The dunes occur in ridges running generally northwest-southeast, interspersed with depressions, some of which contain wetlands. The wetlands support willows, cattails, and other wetland vegetation. The wetlands may have been harvested by the aboriginal inhabitants of the area and may also have attracted deer and other game animals. Also included within the district is a small area of the Casmalia Hills along the Pacific Coast north of Shuman Canyon. This area contains vegetal resources, lithic procurement areas, and a section of rocky coast used for shellfish procurement.

### **2.2.2      Native Americans During the Historic and Modern Periods**

The Chumash occupied the coast from Malibu Canyon to San Luis Obispo and inland as far as the western edge of the San Joaquin Valley (Grant 1978a). The Chumash were divided into several language or dialect groups which corresponded with territory around the missions founded by the Spanish. From south to north along the coast, there were the Ventureño around San Buenaventura Mission, the Barbareño around Santa Barbara Mission, the Purismeno around La Purisima Concepcion Mission, and the Obispeno around San Luis Obispo Mission. The Native Americans who occupied the Vandenberg area were the Purismeno Chumash. These missions were founded between 1772 and 1788. La Purisima Concepcion Mission was founded near present day Lompoc in 1788 and many of the Chumash in the Vandenberg area were converted and baptized by friars from this mission. Prior to 1788, Chumash in the Vandenberg area were proselytized from San Luis Obispo Mission. Santa Ynez was a later mission (1804) founded east of La Purisima to convert Chumash living in the inland Santa Ynez Valley. This group of Chumash became known as Ynezeno. The Cuyama, Emigdiano, and Castac were inland Chumash who lived where no missions were founded. The northern Channel Islands were also inhabited by Chumash.

The missionaries began a program of converting the Chumash to Christianity, baptizing them, and moving them into the missions. Here they were taught farming and European crafts. By 1804, most villages were abandoned and most Chumash lived at the missions. Unfortunately, the congregation of the population at the missions exposed them to European diseases to which the Native Americans had no resistance (Grant 1978a). At La Purisima Mission, the Native American population declined from 1,520 in 1804 to approximately 400 in 1832 (Greenwood 1978:521; King 1984: Figure 9).

Mexico became independent of Spain in 1822 and Alta California, which had been a Spanish colony, became part of the Mexican nation. In 1824, the Chumash at La Purisima Mission revolted against Mexican authority by seizing the mission and forcing the Mexican soldiers to retreat to Santa Ynez. However, reinforcements from Monterey retook the mission a month later, killing 16 Chumash and wounding many others (King 1984:I-14,15).

The Mexican government ordered secularization of the missions in 1834. Theoretically, the missions were to be converted to secular towns with the Chumash as Mexican citizens. Civil administrators would allot mission land to the Chumash (Grant 1978a:507). However, most of the mission land was granted to Mexican non-Chumash.

Many of the Chumash moved to inland areas; those that remained worked for the Mexican rancheros. Epidemics continued to reduce Chumash numbers, and in 1844, most of the remaining Purisima Chumash were killed by a particularly serious epidemic (Grant 1978a:507). In 1845, La Purisima Mission was granted to John Temple of Los Angeles by Governor Pio Pico.

According to the Bureau of Indian Affairs Roll of 1928, there were no Indians living at that time who traced their descent from La Purisima Mission converts (Greenwood 1978:521). Some Chumash did continue to live around the Santa Ynez Mission, and in 1855, the United States set aside 120 acres (the Zanja de Cota land grant) near the mission for 109 Chumash. This reserve was later reduced to 75 acres and became the smallest Indian reservation in the State of California (Grant 1978a:507). This reservation exists today as the Santa Ynez Indian Reservation and the residents and others affiliated with the reservation have organized as the Santa Ynez Band of Mission Indians.

### 2.2.3 Land Use During the Historic Period

The focus of this section is the activities of non-Native Americans in the district after 1769. Unless otherwise specified, all information in this section is from Roberts (1984).

The Portola Expedition, the first Spanish land expedition to California, passed through the district on August 31 and September 1, 1769, and again during the return trip in January 1770. The Portola Expedition was the first step in Spanish occupation of California. It led to the founding of a chain of missions near the coast where the native inhabitants of the area were converted to Christianity and taught to farm and perform other tasks necessary for the prosperity of the missions.

The first mission established near the district was San Luis Obispo, founded in 1772. Chumash from the area in and around the district were baptized at San Luis Obispo until La Purisima Concepcion Mission was founded in 1788 near the present town of Lompoc. The primary economic activity of the missions was cattle ranching for the purpose of producing hides and tallow. These products were traded to merchants on Spanish ships for commodities which were not produced at the missions. This practice was especially prevalent after 1810 (Roberts 1984:II-9). Although the majority of mission livestock consisted of cattle, other livestock included sheep, horses, goats, mules, oxen, and swine. There were 6,000 head of livestock at La Purisima in 1799 and 22,000 in 1818 (Roberts 1984:II-8).

Title to all of the land remained vested in the Spanish crown but the missions had rights to all the land within half the distance to the next mission. The land was not fenced and mission herds wandered over large areas around the mission. Land use at this time was extensive with little or no input of labor, other than that of the neophytes in the fields and orchards around the missions. Wheat, corn, and beans were grown for consumption by the mission population in irrigated fields near the mission and at several outlying ranches where water was available. Rancho Guadalupe was located in the Santa Maria Valley and Rancho San Antonio was located along San Antonio Creek. A diseno (sketch map) prepared for a later Mexican land grant (Roberts 1984: Map 3) shows a building labeled "Rancho de San Antonio" on the north bank of San Antonio Creek immediately west of "Cienega de Todos Santos" (Barka Slough). This is outside the district about six km to the east. Mission records refer to "Rancho San Antonio alias Step" and to "Rancho San Antonio de estep" (King 1984:I-26). This implies that Rancho San Antonio was located at the site of the Chumash village of Estep. The location shown on the diseno corresponds with the location of archaeological site SBa-1004. It is possible that land in the district was considered part of Rancho San Antonio.

### 3.2.3 Native American Resources

Chumash from the Santa Ynez Band of Mission Indians have expressed concern about resources within the district. They have requested that burials, habitation sites, sites where religious activities took place, and areas which provided important plant and animal resources, such as wetlands and oak groves, not be disturbed (Tetra Tech, Inc. 1987: Appendix A). These concerns were reiterated at a meeting held at the Santa Ynez Reservation on January 5, 1988, and during a tour of the district on January 26, 1988. The waterfall near sites SBa-513 and SBa-941 is considered a special or sacred natural feature. Areas of concern and recommendations discussed at these meetings are presented in more detail in Section 8.3. However, only one specific area, other than archaeological sites, was identified as important to contemporary Native Americans by previous investigators. A site record form was filled out for "Resource Area No. 1" by Steven Craig of HDR Sciences in 1980. According to the form, the resource area consists of wetlands adjacent to Turtle Pond and site SBa-540 (Figure 3.2-1) in the central part of the intermediate dunes on San Antonio Terrace. The site form states that "Many of the plants in this wetland area are of the type used by some modern Chumash in basketry and other crafts, and in creation of residences, meeting houses, and sweatlodges" (Craig 1980:2). This statement is attributed to three Native American field consultants. In a later memo (Glassow and Craig 1981:7), Turtle Pond is identified as "the largest and biotically most complex wetland in the San Antonio Terrace." However, other larger wetlands on San Antonio Terrace have been identified during the recent Tetra Tech, Inc. cultural and biological surveys. Therefore, it is likely that other natural resource areas of significance to contemporary Native Americans will be identified during field visits by members of the Santa Ynez Band.

### 6.1.4 Native American Concerns

A Native American field consultant will accompany each survey crew. The project proponent shall contact the Cultural Resources Coordinator for the Santa Ynez Band of Mission Indians to arrange for Native American field consultants at least five days in advance of the survey. The BHPO will provide the project proponent with the name and telephone number of the coordinator. A separate agreement for Native American consultants should be negotiated by the project proponent. The Santa Ynez Band will supply consulting services to the project proponent and their field consultants will not be under the direction of the field archaeologists. These contracting requirements apply to identification, evaluation, data recovery, and monitoring programs when prehistoric sites or sites containing material of Native American origin are being investigated. Additional guidance regarding Native American consultation is provided in Section 8.3.1.

At the conclusion of the field survey, the Native Americans will communicate to the archaeologist any concerns they may have regarding archaeological sites, sacred areas, or traditional plant gathering areas. The archaeological contractor will identify these concerns in the report.

#### 8.1.2.11 Curation

All cultural material recovered from the district must be curated at the Department of Anthropology, UCSB. The Air Force has negotiated a curation agreement with this repository for cultural material recovered during the Peacekeeper and Small ICBM programs. Material should be catalogued, labeled, and packaged for storage in accordance with the requirements of this facility. If a museum or cultural center is established on base, items for display may be curated at this facility with the permission of the BHPO and in consultation with the Santa Ynez Band of Mission Indians.

#### 8.2 Historic Structures

##### 8.2.1 Preservation in Place

As with archaeological sites, preservation in place is the preferred alternative for treatment of eligible historic structures which could be affected by proposed projects. Although the Burton-Marshall Place and the Los Alamos Railroad Viaduct have not yet been evaluated, it is likely that they are significant at the local level, at least under Criteria A, and therefore, should be treated accordingly. Preservation in place may be accomplished through redesign or rerouting of proposed facilities. However, even if the historic structures can be avoided, preservation in place may require stabilization, maintenance, or rehabilitation. Stabilization is defined as "applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present" (Morton and Hume 1979:2). This may involve reroofing or reinforcing flooring. Maintenance involves protection from vandalism and preservation of the historic building materials. Rehabilitation involves "repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values" (Morton and Hume 1979:2). Rehabilitation has also been referred to as "adaptive reuse" and may involve more extensive modifications than stabilization, including new plumbing, rewiring, etc. The idea is to preserve the historic fabric of the building while bringing it up to modern building code standards in order to use a historic building for a contemporary function. It is suggested that the house at the Burton-Marshall Place could be adaptively reused as a cultural center or museum to help interpret the prehistory and history of Vandenberg AFB for the public. The Burton-Marshall Place, located on the base golf course, is accessible to the public without entering the base proper. Any stabilization, maintenance, or reuse plan should be prepared by an historic architectural resource specialist and must be approved by the SHPO.

### 8.2.2 Documentation

If the historic structure cannot be preserved in place, the architectural or engineering characteristics of the structure must be documented before impacts occur. Documentation should also occur before any plan for rehabilitation or reuse is implemented. Architectural documentation must be carried out following Historic American Building Survey (HABS) standards for buildings and following Historic American Engineering Record (HAER) standards for structures designed by engineers, such as the Los Alamos Railroad Viaduct. There are four levels of HABS/HAER documentation (Federal Register 1983). The appropriate level of documentation should be determined by an architectural historian during the evaluation process based on degree of integrity and level of significance of the structure. Documentation techniques include photography using large format cameras from fixed and surveyed positions, plan maps of the site and floor plans, and architectural drawings of elevations and interior features.

### 8.2.3 Architectural Salvage

In addition to documentation of structures which must be destroyed or altered, the SHPO may recommend salvage of significant architectural features for donation to a museum, historical society, or other appropriate group.

## 8.3 Native American Concerns

During preparation of the HPP, the Santa Ynez Band of Mission Indians were consulted regarding their concerns for resources within the district. Their concerns fall into several categories, including archaeological sites, human remains, sacred areas, preservation and access to resource gathering areas (especially wetlands), and establishing a museum or cultural center.

### 8.3.1 Archaeological Sites

The Santa Ynez people request that archaeological sites be disturbed as little as possible. If they must be disturbed, Native American field consultants must be present during archaeological investigation and during grading or construction. The project proponent should negotiate an agreement for Native American field consultants with "The Santa Ynez Band of Mission Indians on behalf of the Tribal Elders' Council." The Santa Ynez Band Cultural Resources Coordinator should be notified at least five days in advance of the need for field consultants. A field meeting with the archaeological principal investigator and field director, the Santa Ynez Band Cultural Resources Coordinator and other Santa Ynez Band officials, and the BHPO will be held to discuss the project and the number of Native American field consultants needed. For grading monitoring, the meeting should include the grading contractor. The archaeological field director will consult daily with the senior Native American field consultant. Portable toilets will be available for use by the Native American field consultants, and the archaeological contractor will provide transportation for the Native American field consultants from a central meeting place on base, such as the Environmental Management office, to the work areas.



The following statements describe the role of the Native American field consultants:

- Field consultants act as official representatives of the Santa Ynez Band.
- Field consultants serve on field crews but are not subordinate to the field archaeologists.
- Field consultants will participate in decision making, especially with regard to the treatment of human remains, ceremonial objects, sacred areas, and communities of traditionally utilized plants.
- Field consultants can observe any and all areas of archaeological field work and can examine any artifacts, features, or other materials being recovered.

#### 8.3.2 Human Remains

Upon discovery of human remains, archaeological and construction work around the remains will be halted within 250 feet of the discovery. The Santa Ynez Band Cultural Resources Coordinator and the BHPO will be notified. The archaeological contractor will have the remains examined in situ by a physical anthropologist. If it is determined that the remains are Native American, they will be left undisturbed until implementation of a treatment plan which has been developed by the Santa Ynez Band, the BHPO, and the archaeological principal investigator. Avoidance is the preferred treatment but other treatment plans will be considered by the Tribal Elders' Council on a case-by-case basis. The Air Force will be allowed the opportunity to seek the comments of the SHPO and the ACHP regarding treatment plans for human remains.

#### 8.3.3 Sacred Areas

All Native American cemeteries are sacred areas and will not be disturbed. The Native Americans have also asked that the sites containing cemeteries not be disturbed. Cemeteries are known to exist north of Shuman Canyon in sites SBa-512, -513, -734, and -941. In addition, the waterfall and pools at the mouth of Dairy Basin Canyon have been identified as a place important to Native Americans. No impacts should be allowed in this area. A large corrugated metal culvert extends into the lower pond, marring the natural setting. The Santa Ynez Band has requested that this be removed by hand, causing as little damage to the area as possible. This activity should be monitored by the Santa Ynez Cultural Resources Coordinator and the BHPO.

#### 8.3.4 Resource Gathering

Resource gathering areas containing traditionally used plants should be preserved and the Santa Ynez people should be allowed access to them. The areas of most concern within the district are the wetlands in the Intermediate Dunes and along San Antonio Creek. All

wetlands should be preserved. If impacts are unavoidable, the wetlands should not be divided and water should be allowed to pass freely throughout the wetlands. If fill to support a road or railroad is placed across wetlands, culverts should be installed to allow water to pass from one side to the other. The wetlands should not be made into reservoirs and should remain as natural as possible. The Santa Ynez Band people have asked that wetland plants of importance to them, including juncus, tule, bur reed, cattail, and red willow, be transplanted from areas which will be affected. Some of them have volunteered to assist in this effort and can be contacted through the Santa Ynez Band Cultural Resources Coordinator.

A procedure should be set up whereby Native Americans can enter the base to gather traditionally used resources, including plants, chert, shellfish, fish, and wood. Hunting and fishing rights for Native Americans are being considered by base officials. The Santa Ynez Band request that any beaver pelts, bird feathers, barracuda, or swordfish found or killed within the district be given to them. These are important in their traditional religion and myths.

#### 8.3.5 Museum or Cultural Center

The Santa Ynez Band request that a museum or cultural center be established on the base so that those who presently use the land can see how the land was used in the past by the former inhabitants, the Native Americans. Not all cultural material recovered from the district need be curated or displayed at such a museum or cultural center; only those items necessary to interpret the past Native American occupation of the area would be used. The Santa Ynez people believe that the establishment of such a cultural center or museum would be an appropriate adaptive reuse of the Burton-Marshall Place.

#### 8.3.6 Mission Register Research

The need for mission register research will be considered on a project-by-project basis by the BHPO. Such a decision will be made, in part, based on the site types involved.

#### 8.4 Construction Monitoring Procedures

A pre-grade meeting will be held to inform the construction contractor of grading monitoring procedures. Requirements of the Archaeological Resource Protection Act prohibiting removal of archaeological material from federal property without a permit will also be discussed.

All grading and other earth-disturbing activities within archaeologically sensitive areas, as defined by the BHPO, will take place in lifts of nine inches or less and will be monitored by an archaeologist and a Native American. Each newly exposed surface will be inspected by the monitors. The monitors will work in pairs (one archaeologist with one Native American), at least one pair at each work location where grading is occurring. The monitors will observe all earth-moving, looking for cultural material.

If cultural material is found, the following procedures will be implemented:

1. Earth-moving or grading within 150 feet of the discovery will be temporarily diverted and the archaeological field director will be notified.
2. The archaeological field director will determine whether the find is an isolate (less than 3 cultural items) or a site (3 or more cultural items) using shovel probes if necessary. If it is an isolate, its location will be recorded, the material will be

collected, and construction can proceed. This, in most cases, should require one hour or less.

3. If the find is a site (3 or more cultural items, each within 20 meters of the next), grading equipment will be diverted and the BHPO (Larry Spanne) will be notified. Site type and boundaries will be determined by following the evaluation procedures specified in the HPP. These procedures include shovel test probes, shovel trenching, and a minimum of two hand-excavated 1-meter by 1-meter units per site or a minimum of one hand-excavated 1-meter by 1-meter unit per 400 square meters of site area. Evaluation procedures may require one or more hours depending on the size of the area requiring evaluation.
4. When the site type and boundaries have been determined, the archaeological field director will deliver a one page summary of testing results to the BHPO at 1 STRAD/ET. The BHPO will agree or disagree with the evaluation within 24 hours. If the BHPO agrees with the evaluation he will sign the form and notify the archaeological field director, at which point, either number 5 or 6 below will occur, depending on the site type. If the BHPO disagrees with the evaluation, the SHPO will be consulted.
5. If the site type is determined to be a low density location, construction can proceed; no further mitigation is required. Low density locations consist of flake scatters having an average of less than one cultural item greater than 0.25 inch in size per square meter and/or less than 20 flakes of any size per cubic meter.
6. If the site is a high density location, sequentially reoccupied location, camp, residential base, or village, the data recovery procedures (mitigation) specified in the HPP for that site type will be implemented. Construction cannot proceed until the BHPO has determined that adequate data recovery (mitigation) has occurred. Such a determination will be stated in writing.
7. After a site has been mitigated, if additional cultural material is exposed by grading, within the same site, additional mitigation (excavation) will not be required unless the additional material represents a new kind of data not recovered during previous mitigation. Such new data would consist of artifact classes and features not recovered during previous mitigation. Features may include hearths, cooking pits, and post holes. Even if no additional mitigation is required, the newly exposed cultural material will be mapped and collected.

PROGRAMMATIC AGREEMENT  
AMONG  
THE UNITED STATES AIR FORCE  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
AND  
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICE

WHEREAS, the U.S. Air Force<sup>1</sup> Department of Defense, proposes to construct Small Intercontinental Ballistic Missile (Small ICBM) and Peacekeeper in Rail Garrison test facilities at Vandenberg Air Force Base (AFB) within the State of California; and,

WHEREAS, the Air Force has responsibilities with regard to Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec 470f, as amended), and the implementing regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR Part 800), the American Indian Religious Freedom Act of 1978, the Archaeological Resources Protection Act of 1979, and Air Force Regulation 126-7, "Historic Preservation; and

WHEREAS, the Air Force, in consultation with the California State Historic Preservation Officer (SHPO), has determined that the proposed undertaking could have effects upon properties included in or eligible for the National Register of Historic Places (historic properties); and,

WHEREAS, the Air Force has developed extensive compilations and analyses of the existing literature regarding historic properties known to exist within the area to be affected by the undertaking (project area); and,

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act of 1966 and 36 CFR Section 800.13, the Air Force has requested the comments of the Council through the development, execution, and implementation of this Programmatic Agreement (Agreement); and,

WHEREAS, the Air Force, the Council, and the SHPO have consulted and will continue to consult and review the undertaking to consider feasible and prudent approaches to avoid, minimize, or satisfactorily mitigate the adverse effects of the proposed undertaking on historic properties,

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1. Air Force means Vandenberg AFB, and all using agencies and tenants, the Air Force Regional Civil Engineer, Norton AFB (AFRCE-BMS), and their agents or contractors.

NOW, THEREFORE, the Air Force, the Council, and the SHPO agree that the program shall be administered in accordance with the following stipulations to satisfy the Air Force's Section 106 responsibilities for all individual undertakings of the program.

The Air Force shall ensure that the following measures are carried out:

I. General

A. The Air Force shall prepare a determination of eligibility for the San Antonio Terrace Archaeological District in consultation with the SHPO. The boundaries of the District are:

- . West: Pacific Ocean
- . South: San Antonio Creek
- . East: From a point on San Antonio Creek near the intersection of Lompoc-Casmalia Road and (East) San Antonio Road proceeding north on Lompoc-Casmalia Road approximately 1 mile to Curly Road intersecting Lompoc-Casmalia Road from the west, following this road to El Rancho Road. The district boundary then follows El Rancho Road to the northwest to the road's closest approach to the Vandenberg AFB boundary. The district boundary follows the base boundary to its intersection with Point Sal Road.
- . North: Point Sal Road west to the intersection with El Rancho Road then north to Building 1959 near end of Globe Road, then west to Lions Head, benchmark 457 and from there to the nearest point on the Pacific coast.

B. The Air Force shall afford the SHPO and Council an opportunity to review and comment on all scopes of work relating to historic preservation prior to implementation, and the opportunity to review and comment on the historic preservation reports and other products generated under this agreement, including the Historic Preservation Plan (Attachment I).

C. The Air Force shall provide data and reports generated under this Agreement to the SHPO and the Council within one month of completion.

D. The Air Force, in consultation with the SHPO, shall notify the public of significant actions proposed under this Agreement, and shall afford the public the opportunity to comment to the Air Force, the SHPO, or the Council regarding these actions.

E. The Air Force, in consultation with the SHPO, shall ensure that all historic preservation activities are carried out by or under the supervision of qualified persons as described in "Procedures for Approved State and Local Historic Preservation Programs," 36 CFR Part 61, Appendix A.

F. The Air Force shall ensure that the measures required by this Agreement are carried out by its contractors and agents.

G. The Air Force, in consultation with the SHPO, shall ensure that its contractors and personnel and resident dependents are advised against the illegal collection of historic and prehistoric materials, including human remains.

## II. Preliminary Tasks for the Identification and Evaluation of Historic Properties.

A. The Air Force, in consultation with the SHPO, has completed intensive surface surveys to provide information on existing conditions in the project area. The resulting data has been synthesized with previous research in support of the establishment of the San Antonio Terrace Archaeological District (Survey Report, Attachment 2).

B. During the surveys, the Air Force consulted with representatives of the Santa Ynez Chumash Indian Reservation regarding their concerns about the effects of the proposed undertaking on areas of Native American traditional, sacred, ceremonial, or other use within the project area, which are or might be eligible for inclusion in the National Register. The Air Force shall consider these and any future comments and shall attempt to accommodate them in the Historic Preservation Plan (HPP), and other aspects of the planning and implementation of the undertaking (Attachment 2, p. A-1).

## III. Development and Implementation of a Historic Preservation Plan

### A. Contents of the HPP

In consultation with the SHPO, the Air Force shall develop and implement an HPP for the San Antonio Terrace Archaeological District. The HPP shall address effects from launch facility expansions and associated access roads, construction or upgrading of roads, railroads, areas affected by road upgrading,

portions of Vandenberg Air Force Base (AFB) affected by the proposed undertaking, and other elements of the proposed undertaking with the potential to affect historic properties. The HPP shall follow the outline in Attachment 1-II.B.2.

B. Review of the HPP

The Air Force shall afford the Council and the SHPO an opportunity to review and comment on the HPP in its draft form. The Council and SHPO shall provide their comments within 45 days of receipt of all relevant documentation. The Air Force shall take such comments into account in the final document. Upon completion and approval by all signatories of the HPP, the Air Force shall implement the HPP as proposed. Disagreements regarding the HPP shall be resolved in accordance with the dispute resolution mechanism in stipulation V of this Agreement.

C. Public Participation

It is understood that the primary kinds of historic properties to be affected by the proposed undertaking are archaeological and historic sites, and Native American traditional, sacred, ceremonial, and other use areas and that the HPP will address such kinds of properties. The Air Force "shall seek information in accordance with agency planning processes from local governments, Indian tribes, public and private organizations, and other parties likely to have knowledge of or concerns with historic properties in the area" (36 CFR Sec. 800.4 (a)(iii)).

IV. Construction Prior to Completion of HPP

A. The Air Force shall ensure that proper coordination occurs between its personnel and contractors to minimize inadvertent damage to historic properties from testing, survey teams, and other activities and personnel. The Air Force has completed a survey for historic properties in all potential impact areas and will conduct additional surveys if project plans change and new impact areas are identified. All surveys will be completed prior to ground-disturbing activities. The level and standards of surveys undertaken pursuant to this Agreement shall be in conformance with the requirements of the HPP or shall have the prior approval of the SHPO. Construction can proceed, in consultation with the SHPO, in areas where historic properties have not been identified in previously surveyed area.

### Unanticipated Discoveries

If subsurface archaeological sites are discovered after construction begins and before the HPP is completed and accepted, construction shall stop and consultation with the SHPO shall be initiated.

### Dispute Resolution Mechanism

At any time during the implementation of the measures stipulated in this Agreement, should an objection related to historic preservation issues be raised by the Council, the SHPO, a federally sanctioned representative of an Indian tribe, or a representative of local or state government, the Air Force shall consult with the objecting party to resolve the matter. If the matter cannot be resolved satisfactorily, the Air Force shall forward all documentation relevant to the matter to the Council. Within 30 days after receipt of all relevant documentation, the Council shall:

A. Notify the Air Force that it concurs in the Air Force's position regarding the matter;

B. Notify the Air Force of changes that would make the Air Force's position acceptable, provided the Air Force agrees with the changes, the matter would be resolved; or

C. Notify the Air Force that it will comment in accordance with 36 CFR Section 800.6(b).

### VII. Monitoring

The Council and the SHPO may monitor activities carried out pursuant to this Programmatic Agreement, and the Council will review such activities if so requested. The Air Force will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.

### VIII. Amendments

Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR §800.13 to consider such amendment.


### IX. Termination

Any party to this Programmatic Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Air Force will comply with 36 CFR §800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

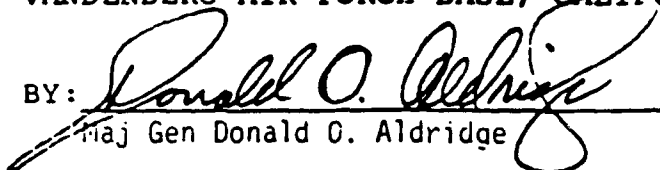


and implementation of this Programmatic Agreement  
that the Air Force has satisfied its Section 106  
obligations for all individual undertakings of the program.


STATE OF CALIFORNIA  
OFFICE OF THE CALIFORNIA COUNCIL ON HISTORIC PRESERVATION

 Date: 7/1/88  
Robert Bush, Executive Director


VANDENBERG AIR FORCE BASE, CALIFORNIA

BY:  Date: 6/15/88  
Maj Gen Donald O. Aldridge

AIR FORCE REGIONAL CIVIL ENGINEER FOR BALLISTIC  
MISSILE SUPPORT, NORTON AIR FORCE BASE

BY:  Date: 6/24/88  
Lt Col Peter Walsh

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

BY:  Date: 7/29/88  
Kathryn Gualtieri, Deputy

**TRIBAL ELDERS COUNCIL**  
Santa Ynez Chumash Indian Reservation

**Santa Ynez Tribal Elder's Dinner Meeting**

**YOUR HOST: Santa Ynez Tribal Elders Council**

DATE November 30th, 1988 (wednesday-nite)  
TIME 6 30 PM - 8 30 PM  
PLACE Santa Ynez Indian Reservation Bingo Hall  
MENU We will furnish TURKEY, STUFFING, GRAVY, BEVERAGES AND TABLE SERVICE. We ask you to bring one of the following: SALADS, BREADS, VEGETABLES, FRUIT OR DESSERT. Any traditional foods or favorite recipes are very welcome.)

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Our special guest include: Dr. Chester King, Archeologist; Mr. Tim Lassen, Project Manager, and Mr. Robert O. Gibson, Archeologist, of Environmental Solutions Inc.. Other guest include: Mr. Lawrence Spanne, VAFB Archeologist and Mr. Chuck Pergeler, Martin Marietta Project Liaison.

The topics to be discussed will be: 1) the potential impact of the proposed SLC-7 project on cultural resources and 2) the mitigation plan for the stone feature near Honda Ridge Rd. on VAFB. A brief discussion will follow on the recently completed SLC-4 /Spring Canyon Archeological Investigation and future ESI cultural resource projects.

ESI and Martin Marietta would like to tour the site area the following week. Those of you wishing to visit the location should sign-up for the trip that evening. **Please come and enjoy the food and guest speakers.**

Please R.S.V.P. no later than Weds., Nov. 23, 1988. Call #688-8446 or 7997

Page 1 of 2 ~~Page 1 of 2~~  
June 12, 1988

**THIS notice is to inform you that a burial site has been exposed from high tides, at Purisima Point, located on Vandenberg Air Force Base.**

**THE** air force needs an immediate decision from the reservation Elder's on these specific issues listed below:

C-Do you wish them to be excavated from where they are now, and removed to a safer place nearby where they'd be reburied much deeper so that the erosion would not affect them?

**Name:**                      **Letter:**                      **Name:**                      **Letter:**

1. Grace M. Romero / C 11. Anna Stokes / C  
2. Margaret A. Cook / C 12. Eva Sigaling / C  
3. Juanita Lintenc / C 13. Rosie Pace / C  
4. Lorne L. Lullie / C 14. Donald Rogers / C  
5. Mary Martinez / C 15. Arthur Pace / C  
6. Rosa M. Pace / C 16. Juanita Grand / C  
7. Juan Ortega / C 17. Robert Osterman / C  
8. Rachel Romero / C 18. Nipha Christa / C  
9. Alfred Romero / C 19. En Comanda / C  
10. Sebastian E. Morales / C 20. Margaret Miranda / C

<<<<<<<<<<<<<<>>>>>>>>>>>>

**THIS** notice is to inform you that a burial site has been exposed from high tides, at Purisima Point, located on Vandenberg Air Force Base.

**THIS** is a very old site, and with the heavy winds, and high tides the erosion process can take as long as seven (7) years to complete its cycle. These human remains cannot be allowed to be exposed for that long, because it influences the on set of 'pot hunters' to dig up, or take away the exposed remains. These human remains belong to our Chumash ancestors and are believed to be thousands of years old.

**THE** air force needs an immediate decision from the reservation Elder's on these specific issues listed below:

**A-** Do you wish the remains to be removed and taken to U.C.S.B., for study, and returned to the area and reburied?

**B-** Do you wish the remains to stay where they are, and leave them exposed to the erosion cycle, which could be 7 more years, plus, the danger of 'pot hunters,' or grave robbers taking them away?

**C-** Do you wish them to be excavated from where they are now, and removed to a safer place nearby where they'd be reburied much deeper so that the erosion would not affect them?

**PLEASE** sign your name, and indicate by letter, either **A**, **B**, or **C**, which one of the three you prefer to happen to these remains. The air force needs a decision, or otherwise they'll take matters into their own hands, as it is government property; and by asking the Elders' their decision, is significant in itself because they recognize us to be the sole protectors of the Cultural Resources.

	Name:	Letter:
21.	Ramon Romero	/ P.
22.	Christina Romero	/ C
23.	Rudolph P. Romero	/ C
24.	Jorge L. Romero	/ C
25.	Mary de la Cruz	/ C
26.	Antonio Romero Jr.	/ C
27.	Charles A. Uchua	/ C.
28.	Emilio F. Uchua	/ C.
29.	Manuel R. Uchua	/ C
30.		/
31.		/
32.		/
33.		/
34.		/
35.		/

# COORDINATION AND FILE COPY

FORM 96, AUG 87  
PREVIOUS EDITION WILL BE USED

22 APR 1988

CC

Authorization for Plant Collection

4392 SPG/SPAP

1. The following members of the Santa Inez Indian Reservation have been granted access to North Vandenberg Air Force Base to collect vegetation until March 31, 1989:

Victor Cota	572-50-7514
Eva Pagaling	564-26-3554
George Choyi Slo Pagaling	552-58-4397
Elaine Schnoider	552-58-4405

2. A copy of this letter will be on file with our Visitor Control Center where a temporary pass will be issued. The following stipulations apply:

a. They must carry a copy of this letter with them during their visit to Vandenberg.

b. If they happen to be on base during a hazardous or security operation, they will be asked to depart the area. To avoid this, I request that they contact our Public Affairs office at (805) 866-3291 prior to their visit so any conflict may be avoided.

3. If they require any additional time to collect vegetation, please contact Mr. Larry Spanne at 1STRAD/ETN (805) 866-1922.

SIGNED

RONALD D. OLIVERIO, Colonel, USAF  
Commander

cc: 1STRAD/ET

FUNC ADDRESS SYMBOL	LAST NAME INITIAL DATE
CINC/CC	
VCINC/VC	
CS	
CSA	
AC	
CG	
CK	
DA	
DE	
DO	
DP	
HC	
HO	
IG	
IN	
JA	
LG	
NR	
PA	
SC	
SG	
SP	
XO	
XP	

DISK #1, PLANTCOL

RETURN TO:	FUNC ADDRESS SYM	ORIGINATOR'S NAME AND GRADE	PHONE NO	TYPIST'S INITIALS	DATE TYPED
	1STRAD/ETN	Sarah Berry	6-1921	AB	20 Apr 88

**TRIBAL ELDERS COUNCIL**  
Santa Ynez Chumash Indian Reservation

**Col. Robertson**  
**Environmental Task Force**  
**Vandenberg Air Force Base**

**April 19, 1988**

**Re: Santa Barbara News-Press SLC-7 Article March 19, 1988.**

**Col. Robertson:**

Upon the completion of our meeting this afternoon, I left feeling quite confident in your commitment towards addressing our concerns. However, when I read the Santa Barbara News-Press front page article regarding the SLC-7 proposed launch site, it now appears as though that meeting was in your best interest not ours. It leads one to assume that VAFB has taken a "build at all cost attitude", which to our tribe and many of our people is disappointing. Especially in light of the fact that our teams (VAFB & SYIR), have made great strides in addressing Environmental concerns throughout the VAFB confines.

It was very disturbing to read in the article that Col. Hayner state: "that no indian artifacts had been found at the proposed location for the new pad, SLC-7". How he could make such a statement is not only a lie and insulting but beyond me in light of the facts that preliminary field surveys under the direction of Dr. Chester King and Mr. Bob Gibson find a significant distribution of artifacts in the area. And, to date, they have yet to issue a preliminary impact statement in reference to the proposed launch location.

In short, I would appreciate a response from your office in regards to Col. Hayner's statements in the media. We are not opposed to new developments on the base but, we would appreciate a fair and honest approach to such issues as they pertain to our culture. The use of the media for the proposed SLC-7 project not only unfair to us but unfair to the general public since it would propose new employment and an increase in the local economy.

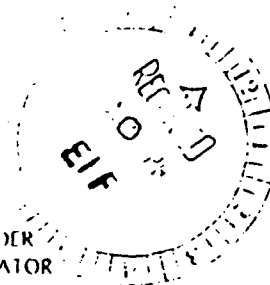
Respectfully,

*Elaine Schneider*

**Elaine Schneider**  
**Coordinator, SY Tribal Elders Council**

OFFICE 805/688-8446  
RESIDENCE 805/937-5595

ELAINE SCHNEIDER  
TRIBAL COORDINATOR



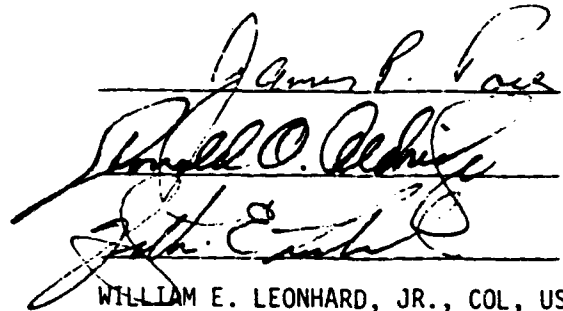
P.O. BOX 365  
SANTA YNEZ CA 93460

MEMORANDUM OF UNDERSTANDING  
FOR  
TITAN PROGRAM CONSTRUCTION ACTIVITIES  
AT VANDENBERG AIR FORCE BASE,  
CALIFORNIA  
DEC 1987

SANTA YNEZ RESERVATION

SAC/VANDENBERG AFB

SPACE DIVISION

Three handwritten signatures are written over three horizontal lines. The top signature appears to be 'James P. Pace', the middle one 'Donald O. Aldridge', and the bottom one 'William E. Leonhard, Jr.'.

WILLIAM E. LEONHARD, JR., COL, USAF  
Director of Acquisition Civil Engr

## MEMORANDUM OF UNDERSTANDING (MOU)

Santa Ynez Reservation (SYR)  
Strategic Air Command (SAC) Space Division (SD)

### 1.0 Purpose

To establish policy for treatment of Chumash Native American cultural resources potentially affected by Titan program construction activities at Vandenberg AFB, California.

### 2.0 Background

- 2.1 On 18 April 1986, a United States Air Force (USAF) Titan space launch vehicle exploded during launch, damaging facilities at Space Launch Complex 4 (SLC-4), Vandenberg AFB. Construction activities associated with repair and renovation of SLC-4 potentially impact archaeological resources.
- 2.2 The USAF conducted archaeological studies for the portions of Vandenberg AFB that would potentially be impacted by construction associated with repair and renovation of SLC-4. The purpose of the archaeological studies was to collect information that would be used; to define the magnitude of potential impacts, to comply with various federal statutes governing the protection and management of cultural resources, including an evaluation as to whether the sites were eligible for inclusion on the National Register of Historic Places; to minimize and/or avoid impacts to cultural resources whenever possible; and to develop mitigation measures for unavoidable impacts.
- 2.3 Eleven culturally significant sites were identified. The majority of these sites contained resources of Chumash Native Americans that inhabited the Vandenberg AFB area in historic and pre-historic times. Archaeological studies also suggested that the Spring Canyon wetlands are of significance to the Chumash culture.
- 2.4 Careful development of final engineering plans for SLC-4 repair and renovation after consultation with environmental protection specialists, archaeologists, and the SYR resulted in avoidance of direct impact to the Spring Canyon wetlands and all but two archaeological sites. The sites that will be impacted are designated in the county-wide inventory housed at the University of California at Santa Barbara as SBa-537 and SBa-1816. Impacts



at these sites cannot be reduced further by design changes or engineering alternatives and still meet requirements of the USAF. The source of the impacts at SBa-537 and SBa-1816 is construction of the security fence that is required to protect space launch resources at SLC-4.

- 2.5 The archaeological studies conducted by the USAF concluded that sites SBa-537 and SBa-1816 are eligible for inclusion on the National Register of Historic Places. The magnitude of potential impacts for all alternative actions (e.g., designs of the security fence) are defined in an Environmental Assessment and the Determination of Effects Reports prepared by the USAF. The USAF will consult with the State Historic Preservation Officer (SHPO) and the Advisory Council of Historic Preservation on the Determination of Effects and the Determination of Eligibility of SBa-537 and SBa-1816 for inclusion on the National Register of Historic Places.
- 2.6 Findings of the archaeological investigations were used to develop a Treatment Plan that details how the USAF will minimize and mitigate adverse archaeological impacts at SBa-537 and SBa-1816. The Treatment Plan describes monitoring requirements, data recovery and research activities, Native American coordination and monitoring, curation of artifacts, and procedures that the USAF will use for new archaeological discoveries and reinterment of human remains, if these actions become necessary. The Treatment plan will be coordinated with the SYR, SHPO and the Advisory Council. Technical information that was the basis for development of the Treatment Plan is summarized in technical reports.
- 2.7 This Memorandum of Understanding (MOU) provides the mechanism for assuring that Native American concerns are addressed for the above described and any future Titan program construction activities and establishes a mechanism for coordinating the Treatment Plan for SBa-537 and SBa-1816 with the SYR. The USAF briefed the SYR on proposed Titan construction activities at SLC-4 in October 1986, December 1986, April 1987, and May 1987.
- 2.8 Execution of this MOU evidences that the USAF has afforded appropriate Native American groups reasonable opportunity to comment on Titan Program SLC-4 renovation projects and that the USAF has taken into account the effects of this undertaking on Chumash cultural resources and the Spring Canyon wetlands. This MOU also evidences that the USAF intends to follow a similar procedure for future Titan program construction activities.

### 3.0 Responsibilities

- 3.1 The SYR Business Council is the recognized representative body for coordination of Chumash Native American interests at Vandenberg AFB.
- 3.2 The Strategic Air Command (SAC), Headquarters 1st Strategic Aerospace Division (1STRAD), Environmental Task Force (ET), is responsible for management of cultural and natural resources at Vandenberg AFB.
- 3.3 The Air Force Systems Command (AFSC), Space Division (SD) is the Office of Primary Responsibility for Titan programs, including associated environmental protection activities, at Vandenberg AFB.

### 4.0 Procedures

- 4.1 The Business Council of SYR will:
  - 4.1.1 Designate a single focal point and spokesperson for all matters relating to archaeological activities at Vandenberg AFB associated with Titan program construction activities.
  - 4.1.2 Notify and coordinate with other Native American groups in the region as to the provisions of the MOU, as deemed appropriate and necessary by SYR.
  - 4.1.3 Provide USAF with a list of qualified and dependable Chumash Native Americans that can be retained by cultural resource contractors as American Indian Advisors (AIA). SYR will update the list of qualified AIA's as they deem appropriate.
- 4.2 The USAF will:
  - 4.2.1 Assure that construction activities or archaeological field work conducted in areas known to or which could potentially contain cultural resources of Chumash Native Americans are monitored by a qualified archaeologist and an AIA to ensure that concerns involving potential ceremonial or ethnic importance are addressed. Properties discovered during construction will be treated in accordance with federal statutes as defined in the Treatment Plan.
  - 4.2.2 Assure that contractual arrangement for field surveys, monitoring, and data recovery operations provide for American Indian Advisors.

- 4.2.3 Provide proper clearances and permits for Native Americans employed as American Indian Advisors.
- 4.2.4 Review the contents of the Treatment Plan and other relevant documents with the designated SYR representative/spokesperson to ensure that SYR's concerns and requirements for disposition of cultural resources have been addressed. Additional documents to be included in the review include the Determination of Eligibility to the National Register of Historic Places, the Documentation of Effects Report and associated technical reports.
- 4.2.5 Ensure that copies of technical documents summarizing archaeological studies conducted for Titan program operations are provided to a designated repository for SYR.
- 4.2.6 Submit the Treatment Plan, the Determination of Eligibility, the Documentation of Effects Report, associated technical reports and this MOU to appropriate state and federal agencies for review and approval.
- 4.2.7 Establish coordination and review meetings between the designated SYR spokesperson, the SD Archaeological Coordinator, the Vandenberg AFB Archaeologist, and cultural resources contractors conducting field work and data recovery related to Titan program construction activities.
- 4.2.8 If required, designate an area immediately adjacent to any disturbed/excavated sites for reinterment of human remains, artifacts, and grave goods. The reinterment area shall not be located at a site which would itself result in adverse archaeological impacts and will be protected but unmarked.
- 4.2.9 All archaeological sites surveyed for the Titan program construction activities will be available for visitation by Native Americans in accordance with Vandenberg AFB safety and security procedures. Requirements for visitation shall be coordinated through the Business Council of the SYR and the Vandenberg AFB Archaeologist.
- 4.2.10 Ensure that contractual arrangements are established to provide for curation in perpetuity at an appropriate regional archaeological repository for any Native American artifacts that are recovered as a result of Titan program construction activities. The Anthropology Museum at the University of California at Santa Barbara is the designated repository. All cultural materials remain the property of the U. S. Government.

5.0 Modifications to the MOU

- 5.1 If any of the parties signing this MOU determines that the terms of the MOU cannot be met or believes that a change is necessary, that party shall immediately request that an amendment or addendum be considered by the other parties. Such an amendment shall be executed in the same manner as the original MOU.



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 1ST STRATEGIC AEROSPACE DIVISION (SAC)  
VANDENBERG AIR FORCE BASE, CALIFORNIA 93437-5000

21 APR 1987

REPLY TO  
ATTN OF CC

SUBJECT Cultural Resources on Vandenberg AFB

TO Distribution A, B, D, E, and H

1. Numerous archaeological (American Indian) and historical sites exist on Vandenberg Air Force Base. These sites represent a valuable and irreplaceable scientific resource.
2. All such cultural resources are under the full protection of federal law. It is illegal to disrupt, destroy, excavate, or otherwise remove artifacts or any other objects from the surface or beneath the surface of these sites. Even taking a single arrowhead found on base property is a federal crime. Offenders may receive maximum fines of \$100,000 with up to five years imprisonment. Rewards of up to \$500 may be paid to any person who furnishes information leading to a finding of a civil violation or conviction of criminal violations.
3. Each agency on Vandenberg must notify their personnel of this situation and provide sufficient control to prevent damage to, or any unauthorized removal of, artifacts and other objects from such sites. The federal laws are applicable not only to individuals collecting artifacts but also to official organizational operations and program-related construction, such as construction of roads, etc., grading of firebreaks, excavation for communications cables, utilities, etc. All official actions which may impact a site require prior coordination with the State Historic Preservation Office.
4. Excavating, "breaking ground," or disturbing any existing pavements must not be accomplished until a Base Civil Engineer Work Clearance Request (AF Form 103) has been completed in accordance with Vandenberg AFB Regulation 85-3. Advanced planning and early coordination will prevent costly delays in projects requiring any digging.
5. Individuals discovering suspected archaeological materials should leave them in place and report their find to 1 STRAD/ETN (6-9687). Suspected violations should likewise be reported to ETN.

  
DONALD O. ALDRIDGE, Major General, USAF  
Commander

UNITED STATES AIR FORCE



SEPTEMBER 18, 1947

# COORDINATION AND FILE COPY

SAC FORM 86, DEC 85  
PREVIOUS EDITION WILL BE USED

29 JAN 1987

Mr James Pace  
Chairperson, Business Council  
Santa Ynez Band of Mission Indians  
P.O. Box 517  
Santa Ynez CA 93460-0048

Dear Mr Pace

Enclosed is a copy of a Memorandum of Agreement (MOA) for the proposed Conoco  
Exploratory Well No. 30-1 off Bishop Road on Vandenberg Air Force Base.

Your organization was involved with preliminary archaeological fieldwork for  
this project as well as planning meetings and review of the Treatment Plan for  
Archaeological Sites CA-SBa-793 and SBa-794.

Please review the attached MOA and, if it meets with your approval, sign and  
return to this office.

If you have any questions, please contact Mr Larry Spanne at (805) 866-1887 1972.

Sincerely

Original signed by

GEORGE S. CLUDD, Colonel, USAF  
Director, Environmental Task Force

1 Atch  
MOA

FUNC ADDRESS SYMBOL	LAST NAME AND DATE
CINC/CC	
VCINC/CCV	
CS	
CSA	
AC	
OG	
CK	
DA	
ET	CLUDD
ET-2	
ET-3	
ET/	AVN
DE	CLUDD
DO	
DP	
HO	
IG	
IN	
JA	
LG	
NR	
PA	
SG	
SI	
SP	
XO	
XP	

RETURN TO:	FUNC ADDRESS SYM	ORIGINATOR'S NAME AND GRADE	PHONE NO	TYPIST'S INITIALS	DATE TYPED
	ETN	George S. Cludd	916-87		29 Jan 87

MEMORANDUM OF UNDERSTANDING  
FOR  
ARCHAEOLOGICAL ACTIVITIES FOR THE  
UNION OIL SANTA MARIA BASIN PIPELINE PROJECT  
VANDENBERG AIR FORCE BASE  
SANTA BARBARA COUNTY, CALIFORNIA

Santa Ynez Band of Mission Indians  
Business Council

Santa Ynez Reservation  
Elders Council

SAC/Vandenberg Air Force Base

DRAFT  
MEMORANDUM OF UNDERSTANDING (MOU)  
USAF/SYBMI

1.0      PURPOSE

To establish policy for the monitoring of archaeological activities related to Union Oil Company's (Union) Santa Maria Basin Pipeline Project in Santa Barbara County California. These archaeological activities include data recovery programs for sites SBa-689, 913, 1743, 1917, 1991, 1992, and 1993 and also include evaluation and possible data recovery at cultural resources discovered during construction of the pipeline.

2.0      AUTHORITY

Antiquities Act 1906

Historic Sites Act 1935

Historic Preservation Act 1966

National Environmental Policy Act 1970

Air Force Regulation 19-2 and Command Supplements

3.0      BACKGROUND

3.1      The U.S. Army Corps of Engineers, Los Angeles District, (COE) is the lead agency for Union activities at Vandenberg Air Force Base (VAFB). The U.S. Air Force, (USAF) at VAFB is a cooperating agency.



3.2 The onshore pipeline will be constructed from landfall at Surf, north of the mouth of the Santa Ynez River, to a proposed dehydration facility north of Lompoc. From the dehydration facility, the pipeline will extend northward to Orcutt. The pipeline right-of-way (ROW) passes through a portion of VAFB north of the Santa Ynez River.

3.3 Previous investigations in the project area related to the pipeline project include one cultural resources sensitivity survey and four archaeological field surveys performed by the Office of Public Archaeology, UCSB; additional field survey and a land use history conducted for an EIS/R by ADL, Inc; and Phase II investigations of various sites conducted by URS, Inc.

3.4 Certain cultural resources found and evaluated during these various projects have been ineligible for National Register consideration or have been avoided through redesign of the pipeline ROW.

3.5 Union is required to develop a data recovery plan (Historic Property Treatment Program) to eliminate adverse impacts to seven known sites and to evaluate and if necessary conduct data recovery at sites discovered during pipeline construction (See section 1.0). The plan has been reviewed and approved by the COE, the USAF, the California State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (Council), and the County of Santa Barbara.

#### 4.0 RESPONSIBILITIES

4.1 The Santa Ynez Band of Mission Indians (SYBMI) is the recognized representative for coordination with Native Americans in the affected region.

4.2 The COE is the lead agency and is responsible for overseeing UNION activities on VAFB.

4.3 The USAF Strategic Air Command (SAC), as a cooperating agency, is the host command for VAFB and is responsible for management of cultural and natural resources on the base and MOU compliance.

#### 5.0 PROCEDURES

##### 5.1 SYBMI will:

5.1.1 Appoint a qualified field consultant as a focal point and spokesperson on all matters regarding pipeline related archaeological activities at these sites and qualified field monitors to be directed by the field consultant.

5.1.2 Notify and coordinate with other Native Americans in the region (as deemed necessary by SYBMI) of the provisions of this MOU.

5.1.3 Develop a plan (in consort with Union and Union's archaeological consultant) for the participation of proper Native American representatives as consultants/monitors during the data recovery activities.

##### 5.2 The USAF will:

5.2.1 Assure that contractual arrangements have been made by Union to cover the consultant monitor and other related tasks.

5.2.2 Ensure that Union and Union's archaeological consultant have met with the Chumash representative to determine Native American concerns and desires with regard to archaeological data recovery activities on the pipeline project.

5.2.3 Establish coordination and review meetings, as required, between local Native Americans through SYBBI, Union and Union's Archaeological consultant. These meetings will be necessary for review of the progress and findings of the data recovery and construction monitoring program.

5.2.4 Provide proper clearances and permits for Native American employees as field consultants/field monitors upon request from Union. Names and social security numbers of employees will accompany the request.

5.2.5 Designate an area immediately adjacent to the excavated sites for the reinterment of human remains, artifacts, etc., if required.

5.2.5.1 The area shall not be located within a site which would in itself result in adverse archaeological impacts.

5.2.5.2 The area shall be protected but unmarked.

5.2.5.3 The area shall be available for visitation to Native Americans in accordance with VAFB procedures to incorporate security/safety requirements.

CONSULTING PARTIES

David J. Warren 25 Sep 86  
UNITED STATES AIR FORCE (DATE)

James T. ... Sept 5, 1986  
CHAIRPERSON, SANTA YNEZ BAND OF  
MISSION INDIANS BUSINESS COUNCIL (DATE)

James T. ... Sept 5, 1986  
CHAIRPERSON, SANTA YNEZ  
RESERVATION ELDERS COUNCIL (DATE)

SANTA YNEZ INDIAN RESERVATION

Land of the Chumash

P.O. Box 517

Santa Ynez, Calif. 93460

(805) 688-7997

BUSINESS COUNCIL

Edward A. Valencia, Chairman  
Charles Ochoa, Vice-Chairman  
Rosa Pace, Secretary/Treasurer  
Manuel Kahn  
George Armenta

October 28, 1985

To: John L. Watkins, Commander USAF  
1 Strat Aerospace Div/cc  
Vandenberg AFB, Calif. 93437-5000

Re: Santa Barbara County, CA  
Native American Monitoring Program

Dear Mr. Watkins,

The purpose of this letter is to clarify the status of the Federally-recognized Elders Council of the Santa Ynez Indian Reservation (FREC), and the Etc Mo'N' Unio, Inc. (MNUUI) with respect to the Santa Ynez band of Mission Indians (the Band). This letter will respond to that request based on action taken at a special meeting of the Band's General Council held on October 20, 1985. You should also be aware that Mr. Edward Valencia and Mr. Manuel Kahn have both resigned from the Business Council. Their positions are now vacant and will be filled according to the procedures described in the Band's Articles of Organization. Until then, the remaining three Members of the Business Council will act to carry out the wishes of the General Council.

After the General Council Meeting of March 10, 1985, a referendum election of the full General Council was conducted, as provided for in the Band's Articles of Organization. By a vote of 60 to 42, the General Council voted to adopt its Resolution No. 117, a copy which is enclosed. By this Resolution, the Band designated FREC to act for the Band regarding "activities concerning matters of Indian Culture and Environmental Functions only." This Resolution and designation of FREC still stands as the formal expression of the will of the General Council, and will continue to stand until and unless the General Council expresses its wishes to the contrary by an equally formal procedure. Therefore, you should continue to regard FREC as the Band's duly authorized agent for these purposes.


As for MNUUI, that organization is a private state-chartered corporation with no official status or sanction from the band. It is composed of sincere individuals who have valid personal views on Archaeological and Cultural matter. However, that

corporation and its members and officers speak only for themselves and not for the Band in any official capacity. The notice that you received dated September 6, 1985 concerning MNUI was not authorized by the Band or its Business Council and should be disregarded.

The Business Council regrets any confusion or inconvenience that you may have experienced. The Band takes seriously its functions in the state and federal environmental review process, including giving its consent to the issuance of federal permits for archaeological excavations under Section 4 of the Archaeological Resources Protection Act of October 31, 1979 (16 U.S.C. Section 470cc) and similar enactments which give certain rights to the local federally-recognized Indian tribes. Because the Santa Ynez Band is the only federally-recognized tribe along the central California coast, it recognizes that its responsibilities will be extensive, and it will do its best to eliminate confusion in the future. For now, you should continue to recognize the two elected representatives of FREC, Eva Pagaling and ~~Rosanna Miranda~~, <sup>(NE LOGGED WITH FREC)</sup> as the official spokesmen of FREC on behalf of the Band. Also, all future contracts should be officially in the name of the Band and executed by the Business Committee, which will insert language into all such contracts clarifying the role of FREC as the authorized agent of the Band for these matters.

We hope that this letter and these procedures will eliminate confusion and give you guidance for the future. If you have any further questions, please call the Tribal Office at 805-688-7997 or Art Bunce, Tribal Attorney, at 619-489-0329.

Sincerely Yours,

  
Charles Uchoa, Vice-Chairman  
and Acting Chairman

  
Rosa M. Pace, Secretary-Treasurer

  
George Armenta, Committee Member

cc: ~~Letter to Santa~~



Tribal Elder's Council  
Santa Ynez Indian Reservation  
Cultural Resource

688-8446

Eva Pagaling  
Representative  
(805) 688-2886  
(706) 837-6696

P.O. Box 48  
Santa Ynez, CA 93440  
(805) 688-7997  
(805) 736-3218



Santa Ynez Indian Reservation  
Cultural Resources

688-8446

Elaine Schneider  
Tribal Coordinator  
(805) 937-5595

P.O. Box 48  
Santa Ynez, CA 93440  
(805) 688-7997

LAND OF THE CHUMASH  
P.O. Box 517  
Santa Ynez, Calif. 93460  
(805) 688-7997

BUSINESS COUNCIL

James P. Pace, Chairman  
Charles Ochoa, Vice-Chairman  
Rosa M. Pace, Secretary/Treas.  
Beatrice B. Marcoe  
George Armenta

Larry Spanne  
Environmental Task Force  
Archaeologist  
Vandenberg AFB

FROM: The Santa Ynez Band of Mission Indians  
SUBJECT: Archaeological Surveys and Monitoring

Dear Larry Spanne,

We feel the time is appropriate to state the Santa Ynez Indian Tribes position and roll as it relates to Archaeological activity within the geographical area of the Chumash Indians.

First, the Santa Ynez Band of Mission Indians has a small number of enrolled Members on the official tribal roll and the Santa Ynez Band is the ONLY Federally recognized Tribal group by the Department of Interior's Bureau of Indian Affairs.

As an officially recognized Tribe, we are formally organized as such by enactment of Articles of Association as approved by the Secretary of Interior (02-07-1964). We are governed by the General Council and have elected officials who represent the Tribe in matters of Tribal concern.

Elected Officials are charged with responsibilities such as Health, Education, Welfare, Housing, Natural Resources, Cultural Resources, Indian History, protection of Indian Burial grounds and Archaeological activities.

Pointing to Archaeological activities the Tribal General Council passed Resolution No. #117, dated March 10, 1985, officially recognizing the Elder's of our Tribe as those having expertise in dealing with Indian History and Matters of Archaeology in nature. For the record, this group is the only group that is officially recognized by a Federally recognized Indian Tribe. Tribal recognition by the Federal Government is positive and clear. The Santa Ynez Indian Reservation was established by Act of Congress, January 12, 1891 under authority of that Act December 27, 1901 (26 Stat. 712-714, C.65). Thus giving our Tribe official recognition as needed to qualify and participate in Federally, State and County programs.

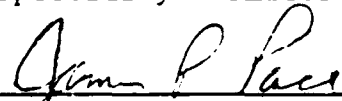
The aforementioned information is offered in spirit of friendship and cooperation and in effort to set the record straight as to who are recognized Indian groups and who are not.

We, the Tribe, feel that as a Federally recognized Indian Tribe, that we reserve certain rights along with certain responsibilities, and one area of responsibility being the participants in Archaeological activities within the Chumash Indian territories. We feel that the Tribes Elder's Council should be the initial contact source when Indian participation is required. The Elder's Council is well organized and fully staffed and maintain a roster of over 60 Monitors (Enrolled Tribal Members) who are on call when the need arises.

In closing, we respectfully request that initial contact for Indian participation in your projects be directed to the Santa Ynez Band of Mission Indians, the attention of:

THE SANTA YNEZ ELDER'S COUNCIL  
P.O. Box 517  
Santa Ynez, Calif. 93460  
(805) 688-8446  
688-7997

Respectfully Submitted,

s/   
James P. Pace, Tribal Chairman

Attached: Organizational Chart  
Resolution No. #117,

cc: Art Bunce, Tribal Attorney  
Native American Indian Heritage Commission  
California Indian Legal Services

RMP:et



SANTA YNEZ INDIAN RESERVATION

Land of the Chumash

P.O. Box 517

Santa Ynez, Calif. 93460

(805) 688-7997

SCA-SY-5-85

BUSINESS COUNCIL

Edward A. Valencia, Chairman  
Charles Ochoa, Vice-Chairman  
Rosa Pace, Secretary/Treasurer  
Manuel Kahn, Comm. Member  
George Armenta

SYR: No. 117

R E S O L U T I O N

WHEREAS: The Elders Council that is formed of a group of Tribal Elders who are of Santa Ynez Chumash Ancestry of the Santa Ynez Band of Mission Indians (A Federally Recognized Tribe) and who are requesting recognition by the Tribe, and

WHEREAS: The Elders Council function will be limited to activities concerning matters of Indian Culture and Environmental Functions only and will in no way carry official Tribal authority or decision making powers pertaining to Tribal Affairs or Official Tribal Communications or Contracts with Federal, State or County Agencies, so

THEREFORE BE IT RESOLVED:

That the General Council will recognize the Elders Council on the basis as outlined above and will withdraw Tribal recognition should the Elders Council violate or usurp the powers of the Tribal General Council.

C E R T I F I C A T I O N

This is to certify that the above resolution was drafted as a result of a motion made at a duly called General Meeting of the Santa Ynez Band of Mission Indians on the 10th day of March 1985 at which meeting a quorum was not attained, therefore, the above resolution was mailed out for ballot vote and the ballot vote was: 60 for, 42 against, and 0 abstaining. This is to certify that the said resolution has not been rescinded in any way.

Edward Valencia  
Edward A. Valencia, Chairman

Charles Ochoa  
Charles Ochoa, Vice-Chairman

Rosa M. Pace  
Rosa M. Pace, Secty-Treasurer

Manuel Kahn  
Manuel Kahn, Comm. Member

George Armenta



Art No. 1

UNITED STATES  
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS  
SOUTHERN CALIFORNIA AGENCY  
3750 DIVISION STREET, SUITE 201  
RIVERSIDE, CALIFORNIA 92506

Tribal Operations  
Resolution Log

April 22, 1985

Edward Valacia, Chairman  
Santa Ynez Band of Mission Indians  
P. O. Box 517  
Santa Ynez, CA 93460

Dear Mr. Valacia:

Receipt is acknowledged of tribal resolution(s) as follows:

<u>Resolution No. (s)</u>	<u>Date Enacted</u>	<u>Branch Referred for Action</u>
SCA-SY-1-85	1-22-85	Orig. Realty/SCA
SCA-SY-2-85	12-16-84	Orig. T.O./SCA
SCA-SY-3-85	Undated	Orig. T.O./SCA (Rec'd 3/15/85)
SCA-SY-4-85	3-10-85	Orig. Forestry/SCA
SCA-SY-5-85	3-10-85	Orig. T.O./SCA
SCA-SY-6-85	3-10-85	Orig. T.O./SCA
SCA-SY-7-85	3-10-85	Orig. Housing/SCA

Copy(ies) is(are) enclosed for the Band's files.

Sincerely,

*M. B. Magante Jr.*

M. B. Magante  
Tribal Operations Officer

Enclosure(s)



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 4392D AEROSPACE SUPPORT GROUP (SAC)  
VANDENBERG AIR FORCE BASE, CALIFORNIA 93437

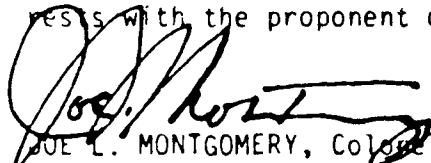
20 DEC 1984

TO: DEV (Mr Spanne, 6-0958)

SUBJECT: Vandenberg Policy Regarding Participation of American Indian Advisors in Archaeological Studies

SD/DEC

1. It is the policy of Vandenberg Air Force Base that an American Indian Advisor representing the Santa Ynez Chumash Indian Reservation accompany the field crew during all studies involving archaeological or other cultural resource sites of Native American origin.
2. The working relationship between archaeological contractor personnel and the American Indian Advisor has been recently defined and incorporated in the "Interim Guidelines" accompanying the 30 August 1984 letter from 1 STRAD/CC to the U.S. Army Corps of Engineers (See Atch 1).
3. The responsibility for funding the American Indian Advisor position rests with the proponent of the project requiring archaeological study.

  
JOE L. MONTGOMERY, Colonel, USAF  
Commander

1 Atch  
Interim Guidelines



# EXECUTIVE CORRESPONDENCE

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 1ST STRATEGIC AEROSPACE DIVISION 194C  
VANDENBERG AIR FORCE BASE, CALIFORNIA 93437

CC

SUBJECT: Relations between Archaeologists under Contract to the Corps of Engineers  
at Vandenberg AFB and Representatives of the Santa Ynez Chumash Indians

TO: U.S. Army Corps of Engineers/SPKED-D (Col Williams)

1. Pursuant to our telephone conversation of 9 August, you will find attached a standard clause to be included in all archaeological contracts for work on Vandenberg AFB. As discussed, inclusion of this clause in the Corps' contracts should establish a firmer basis for interaction between archaeological teams and Santa Ynez Chumash Indian representatives. Fieldwork conducted by the Corps of Engineers' archaeologists should also be subject to the condition.
2. Also attached is an outline of guidelines for interaction between archaeological contractors and local Native American representatives. These guidelines define the role of the American Indian representative and the responsibilities of the archaeological contractor vis-a-vis that representative. These should be useful in preventing the kind of counterproductive relationship that developed between archaeologists and Chumash Indian representatives during the recent fieldwork at sites SBA-246 and SBA-1823.
3. Should you or your staff have further questions or comments, please direct them to Mr Larry Spanne of my Environmental Planning Branch at (805) 866-0958. Thank you for your cooperation.

JACK L. WATKINS, Maj Gen, USAF  
Commander

- 2 Atch  
1. Standard Clause  
2. Outline of Guidelines

cc: U.S. Army Corps of Engineers/SPLDE  
Los Angeles District

30 Aug 1984

DO NOT WRITE ON THIS COVER AS IT IS INTENDED FOR RE-USE  
RETURN IT WITH THE FILE COPIES TO ORIGINATING OFFICE

30 August 1984

Interim Guidelines for Archaeological Contractor (includes Corps of Engineers and other federal archaeologists.

- All archaeological contractors (AC) will be cleared through the Environmental Planning Branch (EPB)(4392 AEROSG/DEV/Staff Archaeologist (SA) at least 30 days prior to the initiation of fieldwork.
- Archaeological contractors will employ an American Indian Advisor representing the Santa Ynez Chumash Indian Reservation during fieldwork on Vandenberg AFB. (Two advisors will be employed on larger projects.)
- An orientation meeting and field tour will be held prior to the initiation of fieldwork. Participants will include a representative of the project proponent, AC and Assistant, American Indian Advisor (AIA) and SA or representative of 4392 AEROSG/DEV (Environmental Planning Branch).
- The Santa Ynez Chumash Indian Reservation or designated representative and the EPB will be notified at least 5 working days in advance of each field visit by Archaeological Contractor personnel to this installation.
- Maintains communication with AIA throughout course of fieldwork, informing AIA of new discoveries, providing discovered artifacts for examination, and encouraging feedback.
- Maintains a degree of objectivity, sensitivity, and respect in interactions with the AIA and requires the same of all crewmembers.
- Avoid unnecessary or excessive collection of artifactual material. Collection of such material from outside the immediate project must be cleared through the Environmental Planning Branch after consultation with the American Indian Advisor.
- Artifactual materials will be delivered to the University of California at Santa Barbara (UCSB) upon completion of cataloging and analysis.
- Prehistoric and other human remains of American Indian affiliation will not be removed until a plan for their disposition has been developed by the EPB, AIA and AC.
- Fieldwork will be conducted in such a manner as to minimize disruption of the vegetation and other natural features.
- The AC will instruct all archaeological personnel to refrain from using profanities and consuming alcohol beverages in the field.
- AC will keep the SA informed of the progress of fieldwork.
- The AC will provide briefings to the AIA at the beginning of each field day on the objectives and progress of work.
- The AC shall maintain a work atmosphere of mutual respect with the AIA.
- The AC will immediately notify the SA of disagreements with the AIA regarding the conduct of fieldwork.

30 August 1984

- Archaeological personnel must avoid heated philosophical and political debates pertaining to archaeological and native American values while on the job.
- Data recovery plans and research designs will be provided to the SA and AIA at least 15 days prior to the initiation of fieldwork.
- Subsurface test excavations at archaeological sites lacking previous determinations of eligibility for nomination to the National Register of Historic Places will be structured in such a manner as to provide sufficient information to allow for a determination of eligibility.
- Copies of all site records, maps, reports and other related information generated by cultural resource studies is to be provided to 4392 AEROSG/DEV.
- All cultural resource locations as well as areas of surveys or other investigations are to be clearly indicated on both USGS 7.5' quadrangles and base master plan sheets (1" to 400' or 800').
- Intensive archaeological surveys are to be conducted by employing transect intervals no greater than 15 meters (50') in areas considered to be sensitive. In the vicinity of known archaeological sites, closer intervals should be temporarily employed
- Descriptions of cultural resource sites whose boundaries extend beyond project limits should cover the entire site.
- Professional qualifications of the archaeological contractor and key administrative and technical supervisory personnel will follow those published in 36 CFR 61 and 32 CFR 229.
- Failure to adhere to guidelines may result in denial of access to Vandenberg AFB for participation in future projects.

30 August 1984

Interim Guidelines for American Indian Advisor (AIA)

- Senior AIA must have written proof of designation as official representative of the Santa Ynez Chumash Indian Reservation.
- Represents the Santa Ynez Chumash Indian Reservation and reports directly to that group.
- Employed in all fieldwork at Vandenberg AFB involving archaeological sites of Native American origin of any age.
- Serves on field crews as a participant observer (most representatives of the Santa Ynez Reservation Chumash prefer to assist as crew members) and advises the principal archaeologist of project-specific concerns, offers recommendations, and otherwise provides input to cultural resource studies.
- Retains the flexibility to observe any and all areas of archaeological fieldwork at any time and examine any artifacts, features, or other materials recovered.
- Participates in decision making during the course of fieldwork - especially with regard to the treatment of human remains, ceremonial objects, communities of traditionally utilized plants and sacred places.
- The AIA is not subordinate to any member of the archaeological team.
- The AIA shall attempt to maintain a working atmosphere of mutual respect with the archaeological contractor personnel. Philosophical and political debates pertaining to archaeological and Native American values must be avoided. Should difficulties arise, the Environmental Planning Branch (4392 AERO33/LEV) Staff Archaeologist will be notified.
- On more extensive projects, the AIA may be assisted by a second individual.
- Failure to adhere to guidelines may result in denial of access to Vandenberg AFB for participation in future projects.

30 August 1984

Interim Guidelines for Staff Archaeologist 4392 AEROSC CES/DEV

- The Staff Archaeologist (SA) assigned to the Base Environmental Planning Branch, representing the 1 STRAD and Installation Commanders, is directly responsible for the management of cultural resources on Vandenberg Air Force Base.
- SA is available to advise and assist base and tenant organizations, project and program proponents, research institutions, educational institutions, American Indians, regulatory agencies and any other individuals or organizations with a valid interest in cultural resources.
- SA is available on a limited basis to conduct records searches, inventories, field surveys and construction monitoring for installation sponsored projects requiring a total commitment of no more than one day. SA is not available to conduct fieldwork for private firms or base tenant organizations.
- SA does not conduct subsurface archaeological excavations.
- Reviews and comments on research proposals, data recovery plans and cultural resource reports.
- Monitors all cultural resource studies conducted on base in order to insure that they are being conducted in accordance with established guidelines, statutes and regulations.
- Coordinates with archaeological contractors, American Indian advisors, construction contractors, U. S. Army Corps of Engineers representatives, regulatory agencies and other entities during the course of a project.
- Investigates complaints and assumes a central role in the resolution of problems related to cultural resource studies.



30 August 1984

Standard Clause from National Park Service, Interagency Archaeological  
Services Statement of Work for Vandenberg AFB Archaeological Contracts

Because the Air Force has an existing Memorandum of Agreement with the Santa Ynez Chumash Indian Business Council for Cultural Resources coordination on Vandenberg AFB, the contractor will employ a Native American observer/consultant for the field work phase of any archaeological investigation to ensure that sensitive concerns regarding sites of potential ceremonial or ethnic importance are coordinated. Contact should be made with:

Mrs Rosa Pace  
Santa Ynez Business Council  
Santa Ynez Rancheria  
Telephone: (805) 688-7997

or

Mrs Juanita Centeno  
403 1/2 North M Street  
Lompoc, California  
Telephone: (805) 736-3218



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS STRATEGIC AIR COMMAND  
OFFUTT AIR FORCE BASE, NEBRASKA 68113

*DESIGN  
DEV*

REPLY TO  
ATTN OF DEP

25 MAY 1984

SUBJECT American Indian Religious Freedom Act and Native American  
Interests in Historic Preservation

TO AIG 688/DE

The attached letter from HQ USAF/LEE provides policy and guidance on Native American interests as they relate to historic preservation activities, and is forwarded for your information and possible action. If you have any questions please contact Ms. Gloria Hagge, HQ SAC/DEPV, AUTOVON 271-5854.

*Norman H. G. Kline*  
NORMAN H. G. KLINE, LTC, USAF  
Deputy Director, Programs  
DCS/Engineering and Services

1 Atch  
HQ USAF/LEE Ltr, 4 May 84

cc: HQ USAF/LEEV  
HQ AFESC/DEV  
1 STRAD/DE  
4392 AEROSG/CC

*Peace . . . is our Profession*



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS UNITED STATES AIR FORCE  
WASHINGTON D C 20330

REPLY TO  
ATTN OF LEE

4 MAY 1984

SUBJECT American Indian Religious Freedom Act and Native American Interests in  
Historic Preservation

TO ALMAJCOM/DE/JA USAFA/DE/JA

1. This letter provides policy and guidance concerning the American Indian Religious Freedom Act of 1978 (AIRFA, 42 U.S.C. 1996), Archeological Resources Protection Act of 1979 (ARPA, 16 U.S.C. 470 aa-11), ARPA Implementing Regulations (32 Code of Federal Regulations Part 229), and their relationship to historic preservation activities. AIRFA requires us to protect and preserve for American Indians, Eskimos, Aleuts, and native Hawaiians their inherent right of freedom to believe, express, and exercise their traditional religions, including, but not limited to, access to sites, use and possession of sacred objects, and the freedom of worship through ceremonial and traditional rites. ARPA establishes the uniform definitions, standards, and procedures to be followed by the Air Force in providing protection for archeological resources. The guidance in the attachment discusses these two acts and their relationship to the Air Force historic preservation program.

2. Please provide this correspondence to your installations.

FOR THE CHIEF OF STAFF

  
CLIFTON D. WRIGHT

Major General, USAF

Director of Engineering and Services

3 Atch

1. Archeological Resources Protection
2. Human Remains Disposition Policy
3. Native American Interests

## Archeological Resources Protection

1. The Archeological Resources Protection Act of 1979 (ARPA) requires any contractor conducting archeological work for the Air Force to have a permit (known as an ARPA or antiquities permit). Each installation should attempt to identify all native American tribal governments having aboriginal or historic ties to the lands under its jurisdiction and attempt to determine, from the chief executive officer or other designated official of any such tribe, the location and nature of specific sites of religious or cultural importance so that such information may be on file for land management purposes. If the issuance of an archeological permit may result in harm to, or destruction of, any native American religious or cultural site on lands under Air Force control, the appropriate Air Force installation must notify, at least 30 days before issuing the permit, any tribal government which may consider the site as having religious or cultural importance. If consultation occurs and results in the adoption of mitigation measures, those measures must be incorporated as terms and conditions in the permit.

2. The American Indian Religious Freedom Act of 1978 (AIRFA) was passed by Congress in recognition of the fact that some agencies had in the past unnecessarily interfered with native American religious practices. For example, agencies had denied reasonable access to sacred sites and had enforced criminal laws governing the use and possession of hallucinogenic plants. The Air Force should be sensitive to such problems. Therefore, when projects are proposed that may impact native American religious sites and practices, the appropriate tribal governments should be consulted. This consultation may occur as part of the environmental impact analysis process. Although specific time limits do not exist, a minimum of 30 days is appropriate as a period to await a tribal response.

3. In addition to tribal governments, there may be other native American groups which have aboriginal or historic ties to lands managed by an installation or proposed for a project. If such groups are known to the Air Force, their official representatives may be communicated with as part of the permit or project consultation process.

4. The consultation process may be difficult because some sites of religious or cultural importance to native American groups are secret, and they may not wish to reveal them. Under these circumstances, native American groups should be informed of proposed project sitings, enabling them to determine the effect the proposed action may have, and whether they wish to disclose and discuss with the Air Force any conflict our actions may create.

5. Construction excavations and archeological investigations may affect native American interests by disturbing aboriginal burials and associated grave offerings. If such a possibility exists, it is desirable to determine during the consultation process the appropriate Air Force response. If an appropriate response action has not been predetermined and human burials are encountered, cease all excavation work in the immediate area and contact HQ AFESC/DEV, autovon 970-6236. Additionally, the Departmental Consulting Archeologist, National Park Service, Washington, D.C., 20240, telephone (202) 343-4101, may be contacted for assistance. A copy of the National Park Service policy concerning treatment of human remains (attachment 2) is provided for your information.

6. After conducting permit or project consultation, it is desirable to avoid unnecessary interference with native American religious practices, but project or permit decisions should be based upon consideration of all factors. It is not required that religious considerations prevail to the exclusion of everything else. If, however, an action may infringe upon the constitutionally protected free exercise of religion, then the requirements are more stringent and staff judge advocate advice should be sought. Such problems arise when government practices create a coercive effect against religion (e.g.; government compels violation of religious tenets; government benefits or rights are conditioned upon the rejection of religious practices; or government impairs practices which are central or indispensable to the religious belief).

7. Separately from the religious significance concern under AIRFA, and the religious and cultural concerns of ARPA, construction projects and associated archeological investigations have a potential to affect native American sites that are eligible for nomination to the National Register of Historic Places in accordance with the National Historic Preservation Act of 1966. To the extent possible, you should distinguish sites of National Register significance from sites of solely religious significance. Sites which are significant for religious reasons alone are generally not eligible for listing in the National Register under 36 Code of Federal Regulations Part 60.4. If sites potentially eligible for listing in the National Register are discovered, then the established Air Force historic preservation consultation and mitigation procedures should be followed. If a historic preservation memorandum of agreement or programmatic memorandum of agreement is to be executed and it covers historic preservation activities that may affect native Americans, the attached paragraph (attachment 3) may be included.

Guidelines for the Disposition  
of  
Archeological and Historical Human Remains

Background

Archeological investigations frequently encounter various types of interred human remains which are important for their cultural, religious and scientific values. While a number of bureaus and offices within the Department of the Interior conduct archeological programs, the Department has never developed a consistent approach toward the disposition of archeological and historical human remains. These Guidelines set forth the approach which the Department will pursue in relation to such remains.

Over the past few years the Departmental Consulting Archeologist has received numerous requests from Federal, State and local agencies and professional archeologists for guidance on the appropriate disposition of historical and archeological human remains. In an effort to provide such guidance, an interim statement on the disposition of human remains was developed and issued in 1979. In response both to comments on this interim statement and to the increasing numbers of requests for further guidance, the Departmental Consulting Archeologist undertook the development of a Departmentwide policy. This policy was developed in consultation with archeologists in other Interior bureaus, the Department's Solicitor's Office and the National Park Service's Office of Management Policy. These guidelines were approved by the Assistant Secretary for Fish and Wildlife and Parks, on July 19, 1982. For further information, contact the Departmental Consulting Archeologist, National Park Service, Washington, D.C. 20240.

Guidelines

The Guidelines outline the approach of the Department of the Interior on the disposition of archeological and historical human remains disturbed during archeological investigations conducted or authorized by the Department's bureaus and offices. These guidelines are in addition to and are not meant to replace or supplant any planning procedures established by Federal law or regulations. In order to deal with a variety of legitimate views of living groups toward the exhumation, analysis and disposition of human remains, the Department seeks to establish a consistent approach for its bureaus and offices to follow in determining the proper treatment of such remains. This approach will be applicable when investigations of archeological resources, conducted by or through the Department as an authorized Federal undertaking, will knowingly disturb interments of human remains, when interments are inadvertently disturbed on property owned or managed by the Department, either through natural causes or through human activities, and in any other situation in which the Department must decide on the disposition of disturbed interments of human remains.

While preservation of human remains in situ is generally preferable to removal, preservation in situ is not always feasible. In cases where it is not, it is recognized that proper treatment often involves especially sensitive issues in which scientific, cultural and religious values must be considered and reconciled. It is therefore the policy of the Department of the Interior to provide reasonable opportunity for consultation by the

responsible bureau or office with groups or individuals interested in the disposition of disturbed human remains. This opportunity should be provided at the earliest feasible time after disturbance or, in the case of planned activity, as soon as it becomes apparent that disturbance of human remains will occur. Each bureau or office shall consider courses of action suggested during construction as well as any requirements of other entities having legal jurisdiction in particular cases while still fulfilling its responsibilities under historic preservation law and Executive Orders.

1. Where the disturbance involves marked or identified interments of human remains, a reasonable effort will be made to identify and locate individuals who can demonstrate direct kinship with those interred individuals. The bureau head or designated representative will consult with such persons who respond in a timely fashion to the notification in the determination of the most appropriate treatment for the interments.
2. Where the disturbance involves interments of human remains known by the bureau to have affinity to specific living groups such as federally recognized Indian tribes or ethnic groups (for example, the Hutterites, Amish and non-federally recognized Indian groups), a reasonable effort will be made to identify, locate and notify leaders, officials or spokespersons for these groups. In the case of Indian tribes, notice shall be given to the recognized tribal governing body. The bureau head or designated representative will consult with such persons who respond in timely fashion in the determination of the most appropriate treatment for the interments.
3. Where the disturbance involves interments which the bureau cannot identify with a specific living group, the bureau will make a reasonable effort to notify groups who may be expected to have an interest in the disposition of the remains based on a professional determination of generalized cultural affinity. If such groups identify themselves as having such an interest, they will be provided a reasonable opportunity to consult with the bureau head or designated representative in regard to appropriate treatment of the interment. If any group claims an affinity with the remains, the responsibility for documenting and validating that claim rests with the group.
4. Any bureau or office of the Department charged with the care or custody of human remains will maintain the collection in keeping with the dignity and respect to be accorded all human remains. Costs accruing as a result of consultation, treatment or curation of human remains are to be borne by the bureau, office or Federal agency responsible for the disinterment.
5. The bureau head may request the Departmental Consulting Archeologist or a designated representative to conduct the consultations required by the policy or to provide advice or assistance in related matters.
6. As used above, the interpretation of "reasonable" and "timely" will consider the cultural or scientific value of the human remains and the cost to the government of locating interested parties and providing consultation opportunities.

\*\*\*\*\*

Policy to be Included in  
Historic Preservation Agreements

NATIVE AMERICAN INTERESTS

The Air Force will consult with native American groups (or American Indian tribes) that have cultural ties to the land at \_\_\_\_\_ Air Force Base regarding properties that may be eligible for listing in the National Register of Historic Places or issues of concern pertinent to such properties. The Air Force will take the concerns of these groups into consideration during development of historic preservation management plans and during implementation of this agreement.

Atch 3



Advisory Council on  
Historic Preservation  
1522 K Street N.W.  
Washington, D.C. 20005

ETN FILE 16C  
B-28

8 JUN 81

#### MEMORANDUM OF AGREEMENT

WHEREAS, the United States Air Force proposes to construct a Space Transportation System at Vandenberg Air Force Base, California; and,

WHEREAS, the United States Air Force, in consultation with the California State Historic Preservation Officer, has determined that this undertaking as proposed would have an adverse effect upon archeological sites numbered SBA-539, 670 and 931, properties determined on the authority of the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places; and,

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320) and Section 2(b) of Executive Order 11593, the United States Air Force has requested the comments of the Advisory Council on Historic Preservation; and,

WHEREAS, pursuant to the procedures of the Advisory Council on Historic Preservation (36 CFR Part 800), representatives of the Advisory Council on Historic Preservation, the United States Air Force, and the California State Historic Preservation Officer have consulted and reviewed the undertaking to consider feasible and prudent alternatives to avoid or satisfactorily mitigate the adverse effect; and,

WHEREAS, Interagency Archeological Services, Heritage Conservation and Recreation Service, will provide the technical assistance necessary to recover the important archeological material from the above-referenced archeological sites and was invited and participated in the consultation process; now,

#### THEREFORE:

It is mutually agreed that implementation of the undertaking, in accordance with the following stipulation and the attached letter of September 1, 1978, from Colonel William C. Martin, Director of Civil Engineering, Department of the Air Force, Space and Missile Systems Organization, will satisfactorily mitigate any adverse effect on the above-mentioned properties.

#### Stipulation

Should it subsequently be determined that, for financial reasons, it will not be possible to complete the specified data recovery program, the consulting parties will reconvene to decide an alternate course of action.

Two  
Random Agreement  
Transportation System  
United States Air Force Systems Command

Robert M. Utley 9/27/78 (date)  
Robert M. Utley  
Deputy Executive Director  
Advisory Council on Historic  
Preservation

James H. Marshall  
JAMES H. MARSHALL, Brig Gen, USAF  
Commander  
Space and Missile Test Center  
Edwards AFB, CA 93437

Bert L. Ruck  
BERT L. RUCK, Colonel, USAF  
Commander  
92d Aerospace Support Group

Gerald K. Hendricks 17 Oct 78 (date)  
Department of the Air Force  
GERALD K. HENDRICKS, Maj Gen, USAF  
Vice Commander, SAMSO

Barbara J. Gordon Nov. 1, 1978 (date)  
Interagency Archeological Services

Karen E. Olson 11/3/78 (date)  
California State Historic  
Preservation Officer

William H. Jones (date) 11/10/78  
Advisory Council on Historic  
Preservation

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS SPACE AND MISSILE SYSTEMS ORGANIZATION (AFSC)  
LOS ANGELES AIR FORCE STATION, ROOM 33745, WOODLEY POSTAL CENTER  
LOS ANGELES, CALIFORNIA 90009

01 SEP 1978



ATTACHMENT A

At SAMTEC refer to:  
SAMTEC/XRX 3312  
10 November 1978

Executive Secretary  
Advisory Council on Historic Preservation  
1522 K Street, N.W.  
Washington D.C. 20005

Gentlemen

The United States Air Force Systems Command (AFSC), Space and Missile Systems Organization (SAMSO) is the lead Department of Defense (DOD) agency for the Space Transportation System (STS) planning at Vandenberg Air Force Base (VAFB), California. Construction activities for the system will commence in January 1979 with the first Space Shuttle launch from Vandenberg AFB scheduled for June 1983. Environmental planning for the STS at Vandenberg AFB began in 1973. The Final Environmental Impact Statement (FEIS) for the Air Force Shuttle Program was filed with the Environmental Protection Agency (EPA) in February 1978.

The Strategic Air Command (SAC), host command for Vandenberg AFB, is responsible for management of cultural and natural resources on the installation. As the developer of the Space Shuttle at Vandenberg AFB, SAMSO is involved in preparing the environmental impact analysis and mitigative measures for construction and operation at Vandenberg AFB. This case study addresses measures required to mitigate the adverse impacts of STS construction activity on Vandenberg AFB archaeological resources. The land involved is federally owned.

In 1974 an archaeological survey and inventory was conducted within the project area to collect planning information for location of the STS facilities on South Vandenberg under a contract with the University of California at Santa Barbara, administered for the Air Force by Interagency Archaeological Services, National Park Service, Western Region (now Heritage Conservation and Recreation Service).

Archaeological investigations in the project area -- a 21 mile long, 3,000 foot wide coastal corridor extending from just north of the Santa Ynez River to a point south of Point Arguello -- were reported in January 1976 (Glasgow, et al). The report gives a description of the environment, physical characteristics of the 80 identified archaeological resources, and provides an evaluation of the significance of all archaeological sites. Thirty-one (31) of these were tested in order to determine stratigraphic depth, chronology, areal extent of components and other data.

Careful construction planning with archaeological field assistance for STS facilities has resulted in avoiding direct impacts to all but three archaeological sites. These three sites occur along the Shuttle Orbiter tow route (Coast Road) and are designated in the countywide site inventory housed at UCSB as SBA 539, 670 and 931. Mitigative measures to reduce the impact on archaeological sites along the tow route were considered in technical interchange meetings with the Corps of Engineers (tow route design agent), Air Force engineers, local Native Americans, Archaeologist from UC Santa Barbara and the National Park Services Interagency Archaeological Services group. A field inspection of each site was made to determine how the tow route could be realigned to eliminate or reduce the impacts for each site. The only feasible alternative was to shift the center line of the tow route to the side of least impact in order to avoid or minimize impacting the site. Not only was designing or constructing a new route cost prohibitive but would result in total destruction of several sites as well as impacts to many others because of the high density of sites in the area.

All three sites will be impacted during widening of existing road cuts along the Shuttle Orbiter tow route (Coast Road) to accommodate the wing span of the Space Shuttle vehicle as it is towed to the launch complex. The existing road cuts bisect the three archaeological sites; further widening will require removal of intact cultural resources. The existing cuts through these sites will be widened approximately one to 13 feet (0.3 to 4.0 meters). No other portions of the three sites will be affected by the construction activities. Construction along the tow route is scheduled to begin in January 1980.

Archaeological sites SBA 539, 670 and 931, along with 11 other sites, have been nominated through Air Force channels for inclusion in the National Register of Historic Places. These nominations have been reviewed by the State Historic Preservation Officer and were found to meet the first and second criteria for inclusion in the National Register (Arch 1). Copies of the nominations for the three potential impacted sites are attached (Arch 2). Should future evaluation, subsurface testing or unearthing of archaeological material by construction activity result in identification of additional cultural resource impacts, or revised significance, the Air Force will consult further with State Historic Preservation Officer, the Advisory Council on Historic Preservation, and local Chumash Native Americans. An emergency data recovery plan will be developed to protect archaeological resources that may be discovered during construction. Environmental protection plans have been developed and will be enforced to insure that all other archaeological sites outside of the impact corridor will be avoided during construction activities.

The Air Force proposes to contract through Interagency Archaeological Services, Heritage Conservation and Recreation Service, with the University of California at Santa Barbara for implementation of a data recovery and preservation program for the three sites to be impacted along the Orbiter tow route (Coast Road) at Vandenberg AFB. The principal investigator for this effort will be Dr. Michael Glasgow. The results of the data recovery program will be detailed in a final report.

In consultation with the Heritage Conservation and Recreation Service, the Air Force proposes the following data recovery program:

a. Excavation and investigation of the impact areas of each site. ("Impact areas" are defined as the strips of land on either side of the Coast Road that will be removed in cut-widening.) It is proposed that 100 percent (to extent that can be professionally justified) of the impact areas on each site be excavated using modern fine-scale techniques of data recovery. In lieu of additional test excavations in non-impacted site areas we propose to complete the analysis of selected test data from the 1974 project. Field work is expected to begin in September 1978; and all data recovery is scheduled to be completed by 30 June 1979.

b. Materials obtained from the excavation except those described in paragraph e below will be processed initially in a field laboratory in the area and then transferred to UCSB for curation and further study at the termination of field work.

c. Preparation of preliminary descriptive report will be completed within six months after the end of the field work. The report will include descriptions of the field research procedures, classes of data collected, and the proposed specialized technical analysis to be conducted although these will not be completed by the time this report is submitted. The principle objective of this report is to verify that the field work has been accomplished and that particular kinds and quantities of data have been collected.

d. Once the analyses are completed, a detailed final technical report of all investigations will be prepared as well as a summary report for the general public. These reports (2) will be submitted 18 months after the descriptive report on the field work.

e. All data collected shall be permanently retained in a repository and shall be accessible to anthropologists, other scientists, Native Americans, and the public in such a manner as to assure their continued integrity and value for research. No deliberate burials of human remains are expected to be encountered within these sites, however, if human remains and mortuary offerings are uncovered, their final disposition will be determined by the Air Force in consultation with the Chief of the IAS, contractor archaeologist, the SHPO and with Native American representatives. If burial remains are uncovered, work shall cease in the immediate vicinity, until this determination is made. Treatment could include the following alternatives: (1) leave the burials in site if construction would not require removal; (2) excavation by archaeologist and physical anthropologist; (3) analysis of the remains at the site or in a laboratory; (4) reinter remains adjacent to the archaeological portion of the site; and (5) curation for long term reference.

Funerals will be treated in accordance with the desires of the Chumash Native Americans. Such activities will be coordinated through the Santa Ynez Tribal Council who will consult with other Native Americans. The Air Force will provide reasonable assistance to Native Americans in accomplishing their

desires with respect to human remains and curation of archaeological materials for their use.

Further redesign of the project is not considered to be feasible. Native American Chumash will participate and/or observe the data recovery program to insure that their requirements regarding Chumash cultural remains are considered. The case study and mitigation plan have been reviewed with Native American representatives.

We believe that implementation of the Data Recovery Plan (Atch 3) prepared by Dr. Glassow (as modified above) will result in a completely satisfactory mitigation of effects of this undertaking. After completing your review, if you concur with our proposed procedure, prepare a "Memorandum of Agreement" pursuant to 36 CFR 800.

Sincerely



WILLIAM C. MARTIN

Colonel, USAF

Director of Civil Engineering

3 Atch

1. SHPO Ltr, 3 Aug 78 -WITHDRAWN
2. Nomination Forms - 539, 670 and 931 -WITHDRAWN
3. Data Recovery Plan -WITHDRAWN

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ETHNOGRAPHIC STUDY REPORT: MX MISSILE TESTING SYSTEM  
AT VANDENBERG AIR FORCE BASE  
SANTA BARBARA COUNTY, CALIFORNIA

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February 1981

ETHNOGRAPHIC STUDY REPORT: MX MISSILE TESTING SYSTEM AT  
VANDENBERG AIR FORCE BASE, SANTA BARBARA COUNTY, CALIFORNIA  
(By: Jeanne Muñoz, PhD)

This report is prepared in partial fulfillment of Work Order No. 1, Contract No. DACA09-81-C-0009 between Chambers Consultants and Planners and the U.S. Army Corps of Engineers.

## INTRODUCTION

The report presents an ethnographic overview of the original inhabitants of the Vandenberg Air Force Base (VAFB) area, and a description of pertinent groups in that area today. The concerns of these Native Americans in regard to cultural resources and cultural resource management as they relate to construction of the MX Missile Testing System at VAFB are presented, and recommendations for facilitating coordination with the pertinent Indian groups and for the formulation of a memorandum of understanding with spokespersons of those groups are made.

The report is based primarily on interviews, with material from published and unpublished literature incorporated as appropriate. Lack of previous contacts in the area assured that I had no preconceived opinions nor affiliation with any of the various local Native American groups or factions of those groups. I began the research by interviewing local anthropologists/archaeologists, who suggested whom to contact in the local Native American community, and who provided background material on the various local Native American groups. Steve Craig and Tim O'Meara were particularly helpful, and Susan Brown, Bob Whitney, Karen Blakeney, and Larry Spanne also contributed important information. Without the help of these colleagues the study could not have been made in the time allotted.

I interviewed 17 Native Americans, many of whom suggested whom else to contact in the local Indian community. I attempted to contact all of those individuals who were most frequently mentioned by colleagues and by Native Americans, but was unable to do so for many were out of town or otherwise unavailable, and because there were too many individuals for me to see in the time available. At least one individual was interviewed from each of the regional Native American groups (except Red Wind; see below in Contemporary Native Americans of the Vandenberg Air Force Base Area) and, when possible, from factions within groups.

This is not an in-depth study, and the sample size is admittedly small. Still, agreement among those consulted was remarkably high, and I submit the report as valid and true.

## ETHNOGRAPHIC OVERVIEW

The Native Americans of the VAFB area have been classified by anthropologists as Chumash. The Spanish regarded the Chumash as superior to other Native



Americans (see Costansó 1970:91-94, for example), and early anthropologists tended to agree (Kroeber 1925:550). Current researchers continue to describe various aspects of Chumash traditional culture in such terms as "surprising(ly)... complex" (Blackburn 1975:12), "unique" (Anderson 1978:10), and Hudson states that "Unquestionably, if any one aboriginal culture in California could be singled out in terms of cultural achievements, it would be that of the Chumash" (Hudson and Underhay 1978:15).

The Chumashan peoples held the territory between Topanga Canyon in the south and Estero Beach in the north, plus San Miguel, Santa Rosa, and Santa Cruz Islands. Their territory extended inland to the edge of the San Joaquin Valley. Thus, they occupied ecologically varied environments rich with terrestrial and marine resources.

The population of all of the Chumash area was probably about 15,000 (Blackburn 1975:8), with the largest population clustered along the shores of the Santa Barbara Channel. Villages of large hemispherical dwellings constructed of poles covered with thatching contained an average of from 100 to 200 people, although larger settlements may have contained as many as 1,000.

The Chumash were predominantly a marine-oriented people, and their greatest technological innovation was the plank canoe, or tomol (sometimes tomolo) (Kroeber 1925:558, Blackburn 1975:8, Hudson et al. 1978). The tomol was used for fishing, hunting sea mammals, and trading between the mainland and islands.

Other material items used in food acquisition included the bow (self- and sinew-backed) and arrow, traps, snares, spears, tridents, harpoons, nets, and fishhooks. Food processing items included mano and metate, mortar and pestle, baskets, wooden and steatite bowls, and steatite comales ("frying pans"). Decorative and ceremonial items were made of shell, bone, wood and stone.

The Chumash economic system was complex and involved widespread formalized trading networks. Shell bead currency was used throughout southern California, and it appears that the Chumash were the primary source of this standardized money (Blackburn 1975:10-11). The economic exchange system was closely tied to the political and religious systems (Blackburn 1974).

The political organization of the Chumash was complex. The primary political unit was the village, presided over by the chief, who was assisted by a ceremonial leader and by two messengers. Villages were linked in loose federations, with a principal village and its chief having some degree of authority over the other villages.

Chumash religious beliefs were complex. Recent, sophisticated research has investigated and analyzed the knowledge and use of astronomy in Chumash rituals (Hudson and Underhay 1978), and the relationship between Chumash cosmography and mythology (Blackburn 1975). Kinship and marriage patterns are not well known, but they probably resembled those of the Yokuts of the San Joaquin Valley.

The Chumash were not extensively studied by the early ethnographers of California Indians, primarily because initial ethnography in California focused on California Indian societies that had not been missionized. Some aspects of precontact Chumash society survived in oral tradition and practice after the mission

period. Many of these traditions have been adapted and modified through time. The traditional basis of Chumash culture is still taught to young Chumash by their elders. Between 1910 and 1940, John P. Harrington of the Smithsonian Institute did extensive ethnographic research with native Chumash speakers. Much of this work remains unpublished. Although Harrington's work is significant, it represents only a limited collection of extant Chumash oral tradition.

Most of what is written on the Chumash peoples pertains to the Chumash of the Santa Barbara Channel; i.e., the Barbareño, Ynezno, and Ventureño (Craig and King 1977:3, Grant 1978b:509). The Purísimeno Chumash who occupied the VAFB area are much less well known for a variety of reasons (see Greenwood 1978 on this). The Ethnohistoric work begun by Steven Craig and Chester King (Craig and King 1977, Craig 1980, King 1980) promises to correct this situation. It is hoped that this work will be completed soon.

## CONTEMPORARY NATIVE AMERICANS OF THE VANDENBERG AIR FORCE BASE AREA

### Characteristics of Pertinent Groups

There are numerous Native American groups in San Luis Obispo, Santa Barbara, and Ventura Counties, many of which are concerned with cultural resources. Members of those groups which are concerned with cultural resource management share several characteristics: they are active in the preservation and enhancement of Native American values and traditions; they participate in the renewal and perpetuation of Chumash heritage; and, with one exception, they have adopted, formally and informally, non-Indians, Indians from other California Indian groups, and Indians from other parts of the U.S. They differ one from another in focus and concerns, in community and political organization, and in the extent of participation in activities related to traditionalism.

Most of the groups have been organized within the past decade or so, some of them within the past year or two. Formation of such groups is a state-wide, perhaps a nation-wide, phenomenon, and is an outgrowth of the Red Power movement of the 1960's and of an increased awareness resulting from that movement. The proliferation of groups is the result of the geographical distribution of the Native Americans, of increased awareness of and appreciation for the Chumash cultural heritage, and of differences in focus of individuals and groups.

Some of the groups are land-based, others are community-based. Those which are, or some of whose members are, or have been, concerned with the cultural resource management program at VAFB are described briefly below.

### Land-Based Groups

#### The Red Wind Foundation

The Red Wind Foundation was established originally in Simi Valley, and moved to Santa Margarita about 1974. Chumash and non-Chumash from the Santa Barbara, Santa Ynez, and Ventura areas lived at the settlement, and were said to practice Chumash religion, to speak Chumash, and to follow Chumash sociocultural values and rules as they were understood by the members of that community (HDR 1980:Appendix C). By all reports, Red Wind is in an unstable state at the

present time. Only one Chumash is currently associated with the organization, and he is not in permanent residence there (O'Meara 1981). Based on this information, on knowledge of their involvement in cultural resource management issues in their more immediate locale, and on the time limitations of my study, I did not visit the group.

#### The Sacred Arrow Society

Dick Pierce and his father have set aside 1,000 acres of their cattle ranch in rural Lompoc for the recently-formed Sacred Arrow Society. Two sweat lodges, a vision point, and pow-wow grounds are available to the 270 members of the Society, and to other Native Americans on occasion. Members of the Society have widespread ties to other Native Americans in San Luis Obispo, Santa Barbara, and Ventura Counties, and share their concerns regarding the cultural resource management program at VAFB.

#### Santa Ynez Indian Reservation

The land included within the Santa Ynez Reservation has been occupied by Chumash families from Missions Santa Ines and Purisima since at least 1834 (Gardner 1955). In 1855, 120 acres of land bordering either side of Santa Ynez Creek was set aside, and 109 Chumash families were settled there (Grant 1978a:507). The number of acres has been reduced through the years, and residents at the reservation talk today of the (re)acquisition of additional land. The reservation has played an important role in the preservation of Chumash identity and cultural heritage, and also plays an important role in "modern" (i.e., Western-oriented) health care, education, etc.

That factionalism exists at Santa Ynez Reservaiton is no-secret (it was mentioned by virtually everyone with whom I spoke). One of the primary bases for the factionalism is directly related to the cultural resource management program at VAFB, in particular to the relationship between the Reservation's Business Council and the Air Force in regard to providing Native American archaeological monitors and excavators. Many members of the General Council state that the Business Council fails to keep them informed about available monitoring work at the Base, that the Business Council makes certain that the same few people get the monitoring jobs, and that the Business Council, in effect, does not represent them or their best interests. (This is not the only source of discontent with the Business Council, but the only one relevant to this report.)

The Air Force did not create the problem by negotiating the Memorandum of Understanding with the Business Council; if relations between the Business and General Councils had been good to start with, the difficulties described above more likely than not would be nonexistent. But the Air Force has contributed significantly to the maintenance and even exacerbation of the factionalism (more on this below).

#### Brotherhood of the Tomol (or Tomolo)

The Brotherhood of the Tomol was an important Chumash association in precontact and early historic times (see Hudson et al. 1978), and the association was reconstituted formally about 1976. The rancheria of the Brotherhood is in Gaviota, on land whose use is donated by Sunburst Farms. The 28 members who

live at the ranchería with their families have recently received a substantial National Endowment for the Humanities grant to finance construction of three tomols (plank canoes). The Brotherhood is very active and assertive in cultural resources management activities.

#### Community-Based Associations

Most of the Chumash people were unable to maintain tribally based land holdings. Following secularization of the Franciscan missions in 1834, many Chumash families became private land holders of relatively small ranches, and others moved onto ranchos and worked for the Californios. Few were able to retain title to their holdings, selling to non-Indians or losing title to mortgage holders. Further, some U.S. Indian agents who held land in trust for the Chumash (e.g., Thomas Hope at Cieneguitas Reservation) succeeded in obtaining title to tribal lands. Descendants of these families maintain an ethnic and tribal sense through membership in urban Indian associations, and by kinship and marriage ties to other Chumash in the area.

#### The Quabajai Chumash Indian Association

The Quabajai Chumash Indian Association, founded in 1971, includes descendants of the Santa Barbara Chumash Reservation at Cieneguitas. By joining together, they are able to preserve more readily their identity and their cultural traditions. Members of the Quabajai Association have been actively engaged in cultural resource planning since 1976, and some of their members are trained and experienced as field archaeologists and as monitors.

#### The Cieneguitas Chumash Indian Association

For reasons undisclosed to (and unpursued by) me, 35 to 40 of the original 200 or so members of the Quabajai Chumash Indian Association formed the Cieneguitas Chumash Indian Association early in 1980. This is the only all-Chumash urban organization that I know of. They are attempting to gain Federal recognition, with help from a local historian and with legal counsel. The Cieneguitas Chumash are concerned with cultural resource management issues.

#### The Santa Barbara Indian Center

The Santa Barbara Indian Center is a nonprofit corporation established in 1975. The purpose of the Center is to "provide a variety of educational, social welfare, public education, and cultural resource management programs for all Indian people in the Santa Barbara area" (Craig 1980:9). Since 1973, the staff at the Center has acted frequently as the legal representative of Chumash who are concerned with cultural resource preservation, guided by the Elders Council, a traditional body in Chumash tribal government. The staff has also been instrumental in the training of local Native Americans as participants in cultural resource management programs.

#### Cultural Resource Associates

#### Cultural Resource Associates is;

"an agency of the Indian Center of Santa Barbara, Inc., a nonprofit tax-exempt community service corporation of the State of California. Cultural

Resource Associates is a minority-controlled and small business enterprise providing cultural resource management services in the fields of ethnography, ethnohistory, archaeology, and Native American community liaison." (Whitney 1980)

According to the Coordinator of Cultural Resource Associates, the firm is in the process of "preparing information that would support a lawsuit that would demand that NEPA and NHPA be strictly adhered to" at VAFB (Whitney 1981).

The relationship between the Santa Barbara Indian Center and Cultural Resource Associates is not entirely clear to me. Both offer services to the local Indian People, but it appears as if the Center is there to assist in cultural resource issues if asked, and that Cultural Resource Associates assist whether asked or not. This is probably a misconception on my part, and no doubt the advocacy role assumed by Cultural Resource Associates is at the behest of the Center.

#### The Southern Owl Clan

Families of several of the various Chumash tribal groups recently formalized their association, and are now known as the Southern Owl Clan. The Clan seeks to recreate the traditional lifeways and to live as much as possible as the proto- and prehistoric Chumash did. They are very concerned about cultural resource preservation. One of the leading members is active in cultural resource management work in Ventura County, working closely with the Candelaria people.

#### The Candelaria American Indian Council

The Candelaria American Indian Council provides the same sorts of service that the Santa Barbara Indian Center does, but in the Ventura County-eastern Los Angeles County area.

#### Other

"Grandfather Victor" Lopez is an important primary Chumash elder. He is in his early 80's, lives with his wife and daughter on family property (a "ranchería," and land enough to accommodate his dance house and other buildings (Craig 1981)) in Montecito. He is a tribal historian, a position recognized and honored by other Chumash. Although it is said that the elders discuss tribal history and traditions only among themselves, Grandfather Victor serves as mentor to at least one young Chumash leader.

#### Discussion

One of the most important points to realize about the groups described above (with the exception of Red Wind, at least for the present, and Cultural Resource Associates) is the interrelatedness of the members of all of them. For example, the president of one of the groups is cousin to the president of one of the other groups (their mothers are sisters); mother of the leader of another group; mother, sister, sister-in-law, and aunt to members of still another group; godchild of a member of another group; etc., etc. Given sufficient ethnohistoric and ethnographic research, it would probably be possible to demonstrate marriage and kinship ties uniting almost all members

of all groups. And it is possible that very many (certainly some members of every group) could trace ancestry to those individuals who lived in one of the six known mission period villages (HDR 1980:10) at VAFB. Further, there are also ceremonial, political, and economic ties among and between the various groups. These ties do not assure continuously amicable relations, and there is often overt, sometimes covert, friction among and between the various groups.

## NATIVE AMERICAN CONCERNS

Native Americans are concerned about cultural resources per se, and about the management of those cultural resources as well. They have become increasingly aware of and sophisticated about their responsibilities and rights concerning these "two faces of the same coin." Each will be discussed below.

### Cultural Resources

The Native Americans with whom I spoke are concerned about the protection of nonarchaeological resources (flora, fauna, minerals, sacred spots, etc.). They are concerned, for example, about plant communities (e.g.; plants used as basketry materials, or in the treatment of disease), about ritually acquired deer meat to be used ceremonially, and about other natural resources. They prefer that the natural environment not be altered any more than it already has been, but realize that this is impossible and impractical.

Most of the Native Americans I spoke with prefer also that archaeological resources not be disturbed; i.e., that sites not be excavated. In addition to religious based concerns with excavation, Chumash opposition to excavation is usually attributed to one, several or all of the following concerns:

1. Is the research question significant enough to warrant the excavation (read destruction) of a site?
2. Is the archaeologist in charge sensitive and responsive to Indian concerns regarding burials?
3. Is it possible to avoid impacting the site?
4. Can the research question be answered through the use of already collected data?

If the excavation is the only possible method of mitigation, many Native Americans prefer that artifacts recovered be reburied. There is general dissatisfaction concerning the curation of artifacts at the University of California, Santa Barbara. Some of the Chumash people desire the construction of a cultural center which would be, in part, a museum in which their artifacts could be displayed, and one Chumash woman is certain that she can acquire (free, or at a dollar a year) land in Santa Barbara for such a center.

None of the Indian people whom I contacted approve of the excavation and scientific analysis of burials. Reburial is an unhappy compromise if destruction is imminent. There is some disagreement concerning appropriate ritual in such a case: one person said that anyone could rebury, others said that only Chumash spiritual leaders could (should) do so.

## Cultural Resources Management Programs

The Native Americans with whom I spoke want to be in on the planning of cultural resource management from the beginning, i.e., they want to be consulted concerning all the cultural resources (not just archaeological resources) in the area to be impacted, and they want to help in planning the management of those resources. There is much dissatisfaction with "the Government" for consulting only with the Santa Ynez Indian Reservation Business Council rather than with the Indian community at large, or at least with representatives of the groups that make up the community at large. As noted in the previous section, the interrelatedness of the Indian people in the region is extensive, and the Santa Ynez Business Council members are not the only ones with ties to and concern for the cultural resources at VAFB.

Some Native Americans insist that a Native American monitor should be with every archaeological field crew, that the monitor should have equal status with the field director, and that the monitor should have the authority to stop excavation and/or construction. Others see the practicality in combining crew-monitor in one position, citing the boredom of "just watching" as one factor in this point of view.

Concern with nonreplaceable resources was uppermost in the minds of those with whom I spoke, and ethnohistory/ethnography were seldom mentioned. Yet these studies are also essential to mitigation. The ethnohistoric research that was begun should be finished, preferably by the scholar who began the study (see Appendix A), and ethnographic work is also necessary to satisfy mitigation requirements. There are two other requirements of mitigation that should be mentioned. The first is the production of a nontechnical report based on archaeological, ethnohistoric, and ethnographic data derived during the cultural resource management process, and synthesized with other relevant data. The second is the construction of interpretive displays to illustrate what the nontechnical report describes. The nontechnical report should be distributed among all the pertinent Indian groups, local public libraries, and the VAFB library. Permission to reproduce it should be stated as given in the introduction. Since interpretive displays are relatively costly, there will be few of them, and their placement must be most carefully considered.

To summarize, Native American concerns regarding the MX Missile Project include the following:

1. Protection of plant, animal and other natural resources;
2. Avoidance of unnecessary impacts to archaeological sites;
3. Protection of human burials; and
4. Participation in all phases of cultural resource management.

### Prior Native American Participation in Cultural Resource Management Planning at Vandenberg Air Force Base

According to Craig (1980:11):

"Air Force consultations held in support of the space shuttle program were initiated prior to public hearings on the final Environmental Impact Statement (EIS). Lacking the expertise necessary for obtaining complete and representative input from the various groups comprising the Chumash

community, the Air Force consultation on Space Shuttle was very protracted and redundant. Pertinent groups and individuals were not included in the process. The Air Force representatives administering the input did not have an adequate understanding of the structure of authority and decision-making among the various Chumash groups contacted. For this reason, considerable confusion occurred regarding the nature and extent of Chumash participation in the data recovery program. After a period of considerable confusion, the consulting relationship established by the Air Force was formalized by Interagency Archaeological Services (IAS) when the Space Shuttle data recovery program was instituted. IAS placed the consulting and participation process in the hands of the Santa Ynez Reservation Business Council."

This action, as mentioned before, resulted in resentment in the larger Chumash community, in lack of communication with the larger Chumash community (including those in the General Council at the reservation), and in lack of participation on the part of the larger Chumash community. Limited participation of the larger Chumash community was achieved by the archaeologist directing the program, with the help of the Santa Barbara Indian Center and the Brotherhood of the Tomol, which demonstrates that members of the nonreservation community are knowledgeable of and concerned about the cultural resource management program at VAFB.

#### Current Native American Participation

The larger Chumash community continues to feel (and is) excluded from all aspects of cultural resource management program at VAFB. Feelings concerning the matter range from unhappiness and discouragement to anger, resentment, frustration, and the desire to "do something about it." "Something," I was told, could include bringing to a halt all archaeological activity at VAFB (through what means I did not ask).

In the following section, I will present recommendations suggested by Native Americans and by local anthropologists and archaeologists in regard to facilitating coordination with pertinent Native American groups.

#### RECOMMENDATIONS FOR FACILITATING COORDINATION WITH PERTINENT NATIVE AMERICAN GROUPS

I shall ignore, for now, the legal aspects of dealing with groups other than the Federally recognized Santa Ynez Chumash peoples, and assume that interaction among and between the Air Force, the Army Corps of Engineers (COE), Chambers Consultants and Planners personnel, and Native Americans is possible, as is suggested in the Scope of Work for this report ("The Environmental-Contractor shall...formulate...procedures facilitating coordination with pertinent Native American groups...").

#### Native American Recommendations

Members of pertinent Native American groups (identified and described above) have suggested the following:



1. A general meeting on Native American involvement in cultural resource management program for the IX Missile Testing System at VAFB should be held as soon as possible.
2. This meeting should be attended by COE and Chambers Consultants and Planners personnel connected with the program, and by interested Native Americans from the local area.
3. The archaeologists should make a presentation on the project, followed by a period during which Native Americans can ask questions, raise issues, state positions, etc.

Some Chumash have suggested that each Indian group send two representatives (one insisted that the representatives be Chumash) to the meeting in order that the meeting go smoothly. That is, too large an attendance would make for an unmanageable situation, and for difficulties in reaching decisions.

Other Indian people have suggested that a permanent, representative Advisory Committee or Board be formed by the Chumash community during the proposed meeting (perhaps at the end, after others have left). This Committee (or Board) would be available for consultation on matters regarding the cultural resource management program at VAFB, and would be responsible for keeping the various groups informed regarding the program.

#### Recommendations by Anthropologists and Archaeologists

Local anthropologists and archaeologists also recommend a general meeting as described immediately above.

#### Discussion

I concur with the recommendation for a general meeting to be held as soon as possible. The location of the meeting should be carefully chosen. The Santa Barbara Indian Center is willing and prepared to host the meeting at a Santa Barbara location outside the Center. Santa Ynez Reservation might be the most central location, but might also be unacceptable to some. It would be wise to poll members of the various groups prior to choosing a meeting place. If necessary, meetings in more than one place may be necessary, and if so, advisable.

The formation of an Advisory Board or Committee is an excellent idea. Such a Board would more accurately represent the Chumash community at large than does the Santa Ynez Business Council and would be available for consultation concerning future cultural resource management programs at VAFB.

#### RECOMMENDATIONS FOR THE FORMULATION OF A MEMORANDUM OF UNDERSTANDING WITH NATIVE AMERICAN SPOKESPERSONS

I strongly recommend that a memorandum of understanding (MOU) be negotiated in such a way that all pertinent groups identified in this report may participate in the cultural resource management planning at VAFB. The proposed Advisory Committee would provide a representative body with which the Air Force and COE could interact as required. If the Air Force and COE are legally constrained

to negotiate an MOU only with the Santa Ynez Band of Chumash Indians, then I urge that the first section of the MOU read as follows:

The Air Force, COE, and Santa Ynez Indian Reservation recognize that all interested Chumash groups should participate actively in all phases of cultural resource management planning relating to VAFB. To facilitate this participation, the Air Force and the COE will deal directly with an Advisory Committee chosen by the representatives of the greater Chumash community (i.e., all of the pertinent groups). Each member of the Committee will be responsible for keeping his or her own group informed and aware of the cultural resource issues and activities at VAFB.

Dwight Dutschke of the California State Office of Historic Preservation and Willie Pink of the California Native American Heritage Commission should be consulted regarding their interpretation of 36-CFR-800, of Public Law 95-341, and of other relevant laws, and they should also be consulted about the appropriateness of these recommendations for a cultural resource management program at VAFB. Dutschke recommended in February of 1980 that both the Santa Ynez Reservation and the Santa Barbara Indian Center be consulted (Doelle 1980), but he may have other recommendations at this time.

The spokespersons the Air Force and COE choose to deal with should be provided with copies of the "Recommended Plan for the Cultural Resource Management Program for the Installation of the MX Missile Testing System VAFB" (Martz n.d.) and any other materials which will help them become better informed about the current status of cultural resource management at VAFB. This should occur prior to meeting to discuss the existing "Conditions" (i.e., the current Memorandum of Understanding) as spelled out in the attachment to Ruck's letter of August 4, 1980, and reproduced this report, Appendix B. Suggestions by Native American spokespersons should be incorporated into the Memorandum of Understanding and into the cultural resource management program if legal and appropriate.

#### MISCELLANEOUS RECOMMENDATIONS

These recommendations are important, but they do not fit into the report as outlined in the Scope of Work, Work Order No. 1.

First, the Native Americans feel strongly that Steve Craig continue with the project. I concur. He has earned the respect and trust of the local Native Americans, and he provides a thread of continuity in the Project. Second, it is important that communications with the Native Americans be much improved. One way to do this is to send each pertinent group copies of memos, draft reports, final reports--whatever--that have to do with the cultural resources at VAFB, and to urge that these be circulated (perhaps summarized or even reproduced full length in tribal newsletters, for example) among members of each group. Responses to these documents should be encouraged, and thoughtfully considered.

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## Appendix A

### PROGRESS REPORT ETHNOHISTORY BACKGROUND RESEARCH MONTH OF SEPTEMBER 1980 (By Chester King)

At the end of September the baptismal records from San Luis Obispo have been indexed by village. Further work will increase the accuracy of this index. Baptisms from Hocto, Estep, Lompoc, Saxpili, Losper, Ajuaps, and Sipuc have been transcribed by village. In addition, information concerning the people baptised from these villages have been abstracted from the 1799 and 1804 censuses of La Purisima Mission.

The marriage and burial registers of La Purisima Mission are being indexed so it will be possible to extract information from them concerning study area villages.

#### Outline of Ethnohistory Preliminary Report:

- I. Introduction - The interpretation of archaeological remains in the Vandenberg Air Force Base will be greatly facilitated by understanding the social context within which activity occurred during the early period of Spanish colonization.
- II. Locations and sizes of historic native settlements in the Vandenberg Air Force Base region.

III. Organization of settlements:

- A. Types of family structure
- B. Differences between family structure at different settlements

IV. Population movements between settlements - The abandonment and foundation of settlements.

V. Relationship between settlement - Marriage ties and tribal groups.

IV. Implications for archaeological research design - Research objectives for data analysis.

The analysis of mission registers is organized to:

1. Determine all family ties described in the registers.
2. Locate all villages contributing converts to La Purisima Mission.
3. Collect all spelling variants of native names. Those will be analyzed by a linguist in order to translate them. The translations of names and name endings will be further analyzed for information concerning native social organization.

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 1ST STRATEGIC AEROSPACE DIVISION (SAC)  
VANDENBERG AIR FORCE BASE, CALIFORNIA, 93437



JAC (Captain Brower, 276-5820)

15 NOV 1978

Indian Relationship Sequence of Events (Your Ltr, 26 Oct 78)

4392AEROSG/DEV

1. You have asked our office to determine (1) who is the legal authority for the Chumash Indians and (2) whether the proposed Santa Barbara County ordinance regarding the preservation of Native American cultural resources will affect either our Memorandum of Understanding (MOU) with the Santa Ynez Reservation Tribal Council or our Memorandum of Agreement (MOA) with the Advisory Council on Historic Preservation. Each of those questions is discussed below.

2. Who is the legal authority of the Chumash Indians? According to Mr. Jerry Tomhave, Superintendent of the Southern California Agency of the Bureau of Indian Affairs, the Tribal Council of the Santa Ynez Reservation is the legal authority for the Chumash Indians. This authority comes from the Indian Reorganization Act of 1934 (P.L. 74-147; 25 USC 461 et seq). The purpose of the Indian Reorganization Act was to give all Indians the opportunity to organize and be federally recognized, if they chose to do so. The Chumash Indians opted for this recognition, and by their Articles of Association, dated 7 February 1964, they became officially recognized by the federal government as the Santa Ynez Band of Mission Indians with a Chumash tribal affiliation. (NOTE: All Southern California Indians are known as Mission Indians because of their connection with the Spanish Missions in the 18th and 19th centuries. However, the tribal affiliation is determined by the origin and cultural background of each particular tribe and is a more accurate designation.) Moreover, Mr. Tomhave stated that at the present time it would be virtually impossible for another group to claim to be recognized as the legal representative of the Chumash. The single most important factor bearing on such recognition is whether or not the group has a land base. The Santa Ynez Mission Band is the only group with such a base. The Traditional Chumash and the Santa Barbara Indian Center - strictly an urban organization - lack the necessary land base to even begin to challenge the Santa Ynez Mission Band as the recognized legal representative of the Chumash. Therefore, the Santa Barbara Indian Center (SBIC) has no legal authority to negotiate for changes to our mitigation plan, and although the State Historical Preservation Office (SHPO) may certainly withhold its endorsement of our mitigation plan, it cannot compel us to negotiate with the SBIC. (NOTE: Mr. Shanks has indicated to us that this issue is now moot inasmuch as SHPO has recently endorsed the recovery plan.)

a. I might add that 25 USC 476, which gives Indian tribes the right to organize and to adopt constitutions and bylaws, also vests in Indian

*Peace . . . . is our Profession*

tribes or tribal councils the power "to negotiate with the Federal, State, and local Governments." This suggests that the Santa Ynez Tribal Council is the proper signatory of the MOU.

3. What effect will the Santa Barbara County Ordinance have on our MOA with the Advisory Council on Historic Preservation and our MOU with the Santa Ynez Reservation? The ordinance will affect neither the MOA nor the MOU. I come to this conclusion for the following reasons: (1) Santa Barbara County has no jurisdiction over Vandenberg AFB in this matter; (2) even if jurisdiction were to attach, the federal government has pre-empted state action in this matter, and (3) even if jurisdiction were to attach and the Santa Barbara County ordinance were not pre-empted by federal law, the ordinance, if applied, would be an unconstitutional impairment of a pre-existing contract. Each of these reasons is discussed briefly below.

a. Santa Barbara County has no jurisdiction over Vandenberg AFB in this matter. Although recent cases have attempted to accommodate the federal and state interests within an exclusive jurisdiction enclave, state jurisdiction cannot attach if such jurisdiction would interfere with federal activities. Howard v. Commissioners, 344 U.S. 624 (1953). Congress may retrocede or return to a state any jurisdiction not required for federal use of the land, but such a retrocession has not occurred here.

b. Even if jurisdiction were to attach, the federal government has pre-empted state action in this matter. That is, the federal statutes are the supreme law of the United States. They take precedence over state statutes. Where Congress has legislated upon a subject within its constitutional authority and has manifested its intention to deal therewith in full, the authority of the states is necessarily excluded, and any state legislation on the subject is void. Here, the federal government has manifested its intention to deal with the preservation of Indian artifacts on federal land. This intention is clearly indicated by the Antiquities Act of 1906 (16 USC 431 et seq). This act protects historic ruins or objects of antiquity situated on federal land (16 USC 432; 25 CFR 132.1).

(1) While we do not claim that the Antiquities Act of 1906 pre-empts all state law regarding the preservation of historic sites and cultural ruins, we do believe that the Act pre-empts the application of the Santa Barbara County Ordinance of Indian artifacts unearthed on federal land. Moreover, although Vandenberg AFB and the United States Air Force have adopted a general policy of submission to state law requirements whenever feasible, here such acquiescence is neither feasible nor required in view of the ordinance's interference with the mission of the federal government.

c. Finally, even if jurisdiction were to attach and the Santa Barbara County ordinance were not pre-empted by federal law, the ordinance, if applied, would be an unconstitutional impairment of a pre-existing contract. Both state and federal constitutions prohibit state legislation impairing the obligation of contracts. For purposes of these constitutional prohibitions, a contract is defined as a voluntary and lawful agreement by competent



parties for a good consideration to do or not do a specific thing. The obligation of a contract is governed by the laws in effect at the time it was made. The constitutional prohibitions apply to a law enacted after the making of the contract, the obligation of which is claimed to be impaired. However, this constitutional limitation does not prohibit the state from validly exercising its police power - the power to protect the public peace, safety, health, and morals - even where such exercise might interfere with a contractual obligation. It is questionable whether this ordinance was passed pursuant to the county's police powers.

(1) Once two parties obligate themselves to one another in accordance with a valid contract, those obligations cannot be impaired or relieved by subsequent legislation unless such legislation is pursuant to the state's police power or is a matter of public policy.

4. To summarize, in our opinion the Santa Ynez Reservation Tribal Council is the legal representative of the Chumash Indians. The Santa Barbara County ordinance will affect neither the MOU or the MOA.



PATRICK B. O'BRIEN, Lt Colonel, USAF  
Staff Judge Advocate

MEMORANDUM OF UNDERSTANDING


FOR

SPACE SHUTTLE

ARCHAEOLOGICAL ACTIVITIES AT VANDENBERG AFB

AUGUST 1978

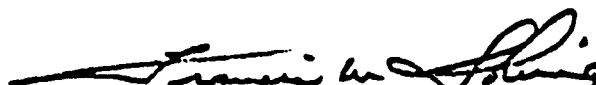
SANTA YNEZ RESERVATION

  
Chairperson, Tribal Council

SAC/VANDENBERG AFB

  
Base Commander

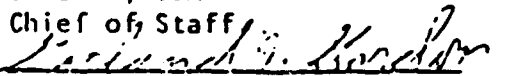
AFSC/SAMSO

  
FRANCIS M. SHINE

Colonel, USAF

Chief of Staff

DEPARTMENT OF THE INTERIOR  
(HRCs)

  
Chief, Interagency Archeological  
Services, San Francisco

MEMORANDUM OF UNDERSTANDING (MOU)  
SAC/SAMSO/SANTA YNEZ RESERVATION (SYR)

1.0 PURPOSE

To establish policy for the monitoring and coordination of Space Shuttle related archaeological activities at Vandenberg Air Force Base (VAFB), California. These archaeological activities are limited to the data recovery program for sites SBa-539, 670 and 931.

2.0 AUTHORITY

Antiquities Act 1906

Historic Sites Act 1935

Historic Preservation Act 1966

National Environmental Policy Act 1970

Air Force Regulation 19-2 and Command Supplements

AFSC/SAMSO FINAL ENVIRONMENTAL IMPACT STATEMENT FEB 1978

3.0 BACKGROUND

3.1 The U.S. Air Force Systems Command (AFSC), Space and Missile Systems Organization (SAMSO) is the lead Department of Defense (DOD) agency for Space Shuttle activities at Vandenberg AFB (VAFB), California.

3.2 Construction activities for the Space Shuttle will commence in January, 1979 with the first Space Shuttle launch from Vandenberg AFB scheduled for 1983.

3.3 In 1974 an archaeological survey and inventory was conducted within the project area to collect planning information for location of Space Shuttle facilities on South Vandenberg under a contract with the

University of California at Santa Barbara, administered for the Air Force by Interagency Archaeological Services, National Park Service, Western Region (now Heritage Conservation and Recreation Service) San Francisco, California. Eighty sites were identified in the area.

- 3.4 Careful construction planning with archaeological field assistance for Space Shuttle facilities has resulted in avoiding direct impact to all but three archaeological sites. These three sites are designated in the county-wide inventory housed at UCSB as SBA-539, 670 and 931. All three sites will be impacted due to widening of existing road cuts along the Shuttle Orbiter tow route (Coast Road) to accommodate the wing span of the Space Shuttle vehicle as it is towed to the launch complex.
- 3.5 The Air Force is required to develop a data recovery plan to mitigate adverse impacts on sites SBA-539, 670 and 931. The plan will be coordinated and approved by Native American interest groups, the State Historic Preservation Officer, the National Advisory Council, and the Heritage Conservation and Recreation Service (CRS).

#### 4.0 RESPONSIBILITIES

- 4.1 The Santa Ynez Reservation (SYR) is the recognized representative for coordination with Chumash Native Americans in the affected region.
- 4.2 Air Force Systems Command, SAMSO/DEV is the Office of Primary Responsibility (OPR) for the Space Shuttle Environmental Protection Program at Vandenberg AFB and all Space Shuttle related environmental matters.
- 4.3 The Air Force Strategic Air Command (SAC) is the host command for Vandenberg AFB and responsible for management of cultural and natural resources on the base.

5.0 PROCEDURES

5.1 SYR will:

- 5.1.1 Appoint a representative as a focal point and spokesperson on all matters regarding the Shuttle-related archaeological activities at these three sites.
- 5.1.2 Notify and coordinate other Native American in region (as deemed necessary by SYR) of the provisions of this MOU.
- 5.1.3 Develop a plan (in consort with SAMSO/DEV) for the participation of proper Native American representatives as observers/field assistants, etc., during the data recovery activities.

5.2 SAMSO/DEV will:

- 5.2.1 Assure that contractual arrangements are made to cover the observer/field assistant and other related tasks.
- 5.2.2 Submit data recovery plan on the impacted sites for review and approval by Chumash Native Americans and proper Federal and State agencies.
- 5.2.3 Review data recovery plan with representative Native Americans from the reservation to insure that their requirements with regard to Chumash cultural remains are considered.
- 5.2.4 Consult with Chumash representative on Native American concerns and desires with regard to archaeological data recovery activities on Vandenberg AFB.
- 5.2.5 Establish coordination and review meetings between local Native Americans through SYR, UCSB contractor, and HCRS. These meetings will be necessary for review of the progress and findings of the data recovery program.

- 5.3 SAC/Vandenberg AFB will:
- 5.3.1 Provide proper clearances and permits for Native Americans employed as observer/field assistants.
  - 5.3.2 Designate the area immediately adjacent to the excavated sites for the reinterment of human remains, artifacts, etc., if required.
    - 5.3.2.1 The area shall not be located within a site which would in itself result in adverse archaeological impacts.
    - 5.3.2.2 The area shall be protected but unmarked.
    - 5.3.2.3 The area shall be available for visitation to all Native Americans in accordance with VAFB procedures to incorporate security/safety requirements. Such request for visitation shall coordinate through Tribal Council of the Santa Ynez Reservation

## **APPENDIX NINE: CHINA LAKE NAGPRA MEETINGS**

This appendix includes documentation from recent meetings of interested parties concerned with the Native American Graves Protection and repatriation Act (NAGPRA). It specifically addresses NAGPRA's impact to the Naval Air Weapons Station in China Lake, California.

held in Independence, CA.

## AGENDA

### MEETING OF INTERESTED PARTIES NATIVE AMERICAN GRAVES PROTECTION & REPATRIATION ACT

26 August 1992

#### Welcome & Opening Remarks

- \* Introductions

#### NAGPRA Briefing

- \* Law
- \* Draft Regulations
- \* Definitions
- \* Procedures

#### Present Status

- \* NAWS participation in DoD Curation Needs Assessment Program
- \* Preliminary examination of NAWS China Lake collections at NAWS China Lake, Maturango Museum of Indian Wells Valley (Ridgecrest, Ca.), University of California Riverside, and Ancient Enterprises Inc. (Santa Monica, Ca.)
- \* Discovery of human skeletal remains from at least five individuals

#### Navy's Intentions/Plans/Process

##### NAGPRA Inventory Plan

- \* Initiates early October 1992: actual inventory estimated to commence in early January 1993
- \* Identify all archaeological projects conducted at NAWS China Lake (and the repositories where collections have been curated) for inclusion in the NAGPRA inventory process
- \* Conduct NAGPRA inventory of all NAWS collections at suitable facilities located at NAWS China Lake
- \* Inventory process estimated to take up to 365 calendar days

##### Native American Consultation

- \* Additional Meetings of Interested Parties--Status Up-date Meetings--on a (roughly) quarterly basis during performance of inventory; estimate the next status-update meeting in early January 1993
- \* Opportunity for the community to establish a Native Community Working Committee of from 5 to 7 people for periodic on-site progress review meetings for the duration of performance of inventory; request that the community identify their Working Committee in concert with the next scheduled status-update meeting (early January 1993 time frame)

##### Repatriation

- \* Establishment of a Repatriation Committee comprised of Native American community leaders and NAWS representatives to review claims for repatriation

#### Comments by Audience

- \* Option for written comments

#### Closing Remarks

- \* Summarization & Reiteration
- \* Time frames

#### Adjourn



## **EXECUTIVE SUMMARY:**

### **NATIVE AMERICAN GRAVES PROTECTION & REPATRIATION ACT IMPACT TO NAVAL AIR WEAPONS STATION, CHINA LAKE**

#### **ISSUE:**

If a federal agency has possession of, or control over any Native American human remains or grave goods, that agency must comply with the Native American Graves Protection & Repatriation Act of 1990 (NAGPRA)

Human remains excavated from NAWS China Lake have been discovered at the Maturango Museum (and others are believed to be housed elsewhere), and NAWS must execute the inventory, identification, consultation and repatriation process mandated by NAGPRA

Because NAGPRA concerns extend to future activities and the potential for inadvertent discovery of human remains and associated materials, NAWS needs to formulate effective policy to direct future dealings in these matters

#### **RECOMMENDED APPROACH: (These to be conducted concurrently)**

##### **(1) TECHNICAL:**

- \* Inventory, identification, assessment and documentation of all archaeological assemblages
- \* Determine cultural or geographical affiliation

##### **(2) CONSULTATION:**

- \* Consult with Native American Heritage Commission
- \* Inform appropriate Native American community members
- \* Establish working relationship with Native American representatives to determine treatment and disposition of human remains
- \* Repatriate or otherwise protect the remains, depending on what is negotiated as final disposition

#### **TENTATIVE SCHEDULE & MILESTONES:**

\* Native American consultation will commence with an initial meeting of interested parties, tentatively scheduled for the mid-August time frame. Additional meetings of interested parties are proposed on a quarterly basis during performance of the NAGPRA inventory plan. Final revisions to the NAGPRA inventory plan will be made after consultation has been initiated

\* Following initiation of the NAGPRA inventory plan, inventory of human skeletal remains, burial goods, sacred objects and items of cultural patrimony will be completed within 365 calendar days

\* Concluding negotiations regarding the disposition of NAGPRA related materials will be conducted immediately following conclusion of the NAGPRA inventory plan

*held in Lone Pine, CA*

**AGENDA**

**MEETING OF INTERESTED PARTIES  
NATIVE AMERICAN GRAVES PROTECTION & REPATRIATION ACT**

**22 October 1992**

**6:30 pm**

**Welcome & Opening Remarks**

- \* Introduction

**NAGPRA Briefing**

- \* Law & Regulations
- \* Definitions
- \* Procedures
- \* Outline of China Lake's Program
- \* Recap/Summary of 26 August Meeting

**Present Status of China Lake's NAGPRA Program**

- \* NAGPRA Inventory Project
- \* Native American Consultation

**7:30 pm**

**Comments by Audience**

**Closing Remarks**

**9:30 pm**

**Adjourn**

**SUMMARY OF THE  
NATIVE AMERICAN GRAVES PROTECTION & REPATRIATION ACT  
22 October 1992**

- \* The purpose of NAGPRA, the Native American Graves Protection and Repatriation Act of 1990 (PL 101-601; 104 STAT. 3048; 25 USC 3001), is the protection of Native American burial sites and human remains, funerary objects, sacred objects and objects of cultural patrimony on federal and tribal lands. This act was signed into law 16 November 1990.
- \* NAGPRA defines ownership and control of Native American human remains, funerary objects, sacred objects and objects of cultural patrimony excavated or removed from federal or tribal lands after the enactment of the Act. This Act provides for: determining final disposition of unclaimed human remains and objects; conditions to permit lawful excavation and removal of human remains and objects; and, requirements for written notification and cessation of project activity in the event of inadvertent discovery.
- \* NAGPRA also addresses the disposition of Native American human remains that have been excavated or removed from federal or tribal lands prior to enactment and currently held or controlled by federal agencies and museums.
- \* Within 5 years of enactment, NAGPRA directs all federal agencies (and all museums which receive federal funds) having possession of, or control over any Native American human remains or associated funerary objects to compile an inventory of such remains or objects and, with the use of available information at hand, attempt to identify them as to geographical and cultural affiliation.
- \* NAGPRA further directs that, within 3 years of enactment, a written summary of unassociated funerary objects (those items which are generally known to be funerary objects but are not connected to a specific burial site or individual human remains), sacred objects, and objects of cultural patrimony be completed. The summary shall describe the collection, cite the number of objects and identify roughly how, when and from where the collection was received. Following the summary, the appropriate tribe is to be contacted and the two sides are to meet to discuss the future disposition of the items in question.
- \* The inventories and identifications required under NAGPRA shall be conducted in consultation with appropriate tribal governments and traditional religious leaders. To that end, the Act establishes a Review Committee at the national level to monitor and review the implementation of the inventory and identification process and repatriation activities.
- \* Upon completion of inventory and identification, if it is clear which tribe is related to the remains or objects and that tribe wishes the return of the items, they are to be returned. NAGPRA allows for the repatriation of culturally affiliated items as well as any other agreement for disposition or caretaking which may be mutually agreed upon by involved parties.

**NAVAL AIR WEAPONS STATION CHINA LAKE**  
**NAGPRA PROGRAM FACT SHEET**  
**22 October 1992**

**BACKGROUND**

- \* In conjunction with a DoD Legacy Resource Management Program to conduct a Curation Needs Assessment Survey, China Lake identified the presence of NAGPRA related materials in collections recovered from archaeological sites located on Naval Air Weapons Station lands. These efforts were conducted in December 1991, commencing with collections housed on-Station and at Maturango Museum of Indian Wells Valley. Also included in the Curation Needs Assessment Survey were collections housed at University of California Riverside and Ancient Enterprises, Inc. (a private contracting firm).

**PROGRAM ACTIVITIES**

- \*Meeting of Interested Parties
- \*Identify and locate all collections derived from lands under NAWS China Lake jurisdiction
- \*Consolidate collections at NAWS China Lake Cultural Resources Laboratory
- \*Status up-date meeting of Interested Parties and formation of Native American Working Committee
- \*Initiate collections inspection, inventory and summary procedures
- \*Prepare Inventory and Summary Documentation
- \*Status up-date meeting of Interested Parties to discuss the Inventory and Summary Documentation
- \*Formation of the Repatriation Committee
- \*Consultations to conclude repatriation process

**INFORMATION REGARDING THE NAWS CHINA LAKE NAGPRA PROGRAM**

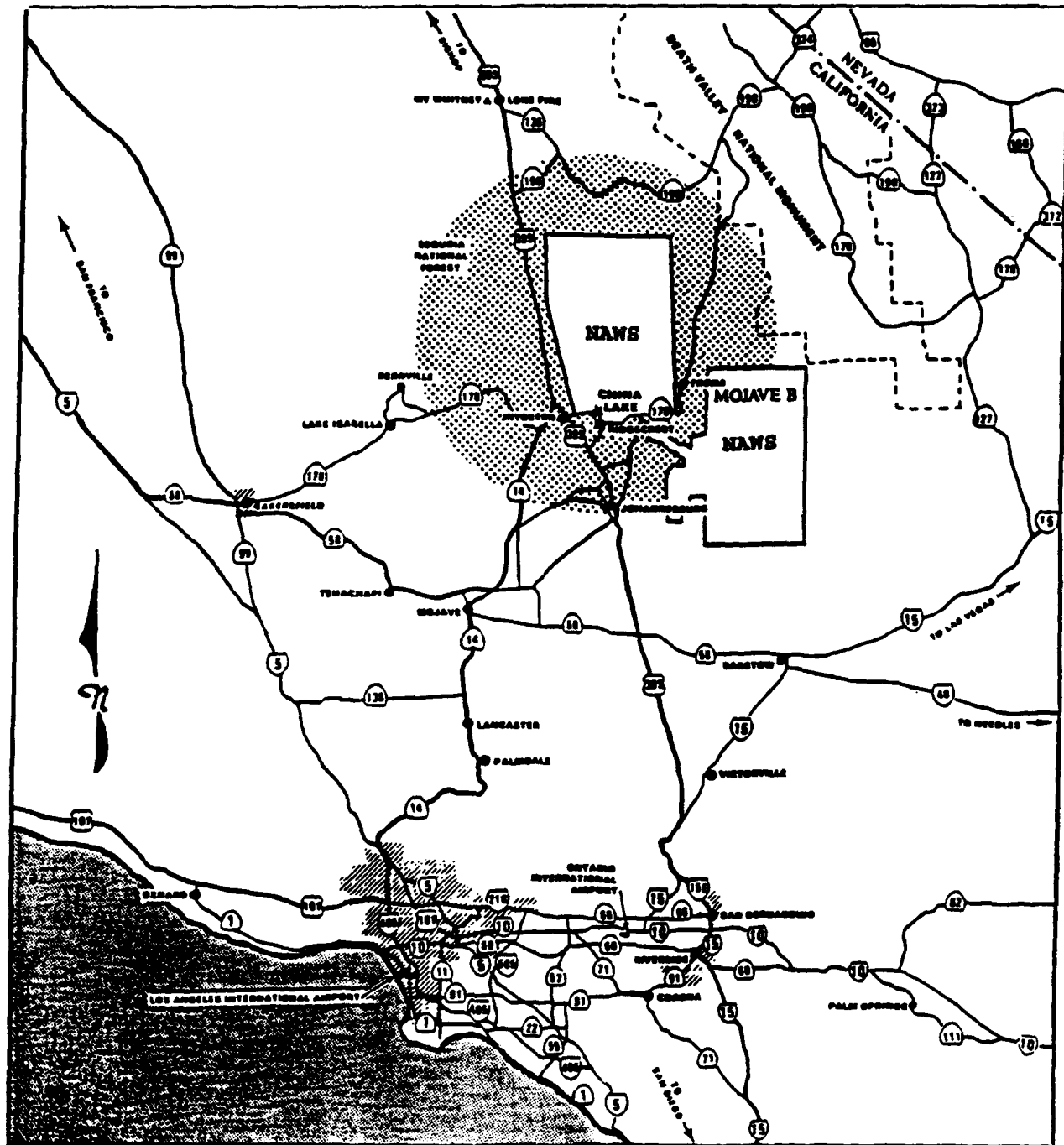
**Contact:**

Debbie Smith  
Code C0803  
Environmental Public Involvement  
Naval Air Weapons Station  
China Lake, California 93555-6001  
telephone (619)927-1523

**Or:**

Public Affairs Office  
Code C0803  
Naval Air Weapons Station  
China Lake, CA. 93555-6001  
telephone (619)939-3511

LOCATION OF NAVAL AIR WEAPONS STATION (NAWS) CHINA LAKE TEST RANGES



**IMPLEMENTATION PLAN:**

**NATIVE AMERICAN GRAVES PROTECTION & REPATRIATION ACT  
Public Law 101-601, 16 November 1990**

**AND**

**COMPLIANCE EVALUATION FOR 36 CFR PART 79**

**NAVAL AIR WEAPONS STATION CHINA LAKE, CALIFORNIA**

**26 AUGUST 1992**

**1.0 SCOPE**

The Naval Air Weapons Station, (NAWS) China Lake requires qualified technical support to inventory and evaluate federally owned and administered archaeological collections. These inventory and evaluation efforts are required under authority provided in Appendix A of this Scope of work.

Technical support shall focus on assemblages removed from lands under NAWS China Lake jurisdiction and curated at select repositories in various locations throughout the southern California region.

It is required that collections that have been generated from archaeological work on Navy lands be identified, visited, inspected, and transported to laboratory facilities at NAWS China Lake (as provided for in Section 5.4 of this scope). Once on-board, each collection will be examined in detail and a summary and inventory will be generated of all human skeletal remains, funerary objects (associated and unassociated), sacred objects and objects of cultural patrimony. Detailed description of the work efforts to be performed under this scope are provided below.

**1.1 NAGPRA Compliance:**

- a. Literature Review;
- b. Creation of a Master Bibliography;
- c. Physical Inspection of the collections;
- d. Summary and Inventory preparation.

**1.2 36 CFR Part 79 Compliance Evaluation:**

- a. Identify all known collections of archaeological artifacts and associated documentation under NAWS China Lake jurisdiction;
- b. Provide recommendations for the rehabilitation and long-term curation of artifact collections, including the approach to be taken and the level of effort required;
- c. Assemble, organize, and arrange all available collections of associated documentation, including an organized collection of project reports;
- d. Provide recommendations for the long-term preservation of associated documentation, including the approach to be taken and the level of effort required;
- e. Provide lists of suppliers of archival and archaeological curation materials.

20 Aug 92

## **2.0 APPLICABLE DOCUMENTS**

- 2.1 Appendix A.** See Appendix A for listing of applicable federal laws, regulations, directives and other guidance documents pertaining to federally owned and administered archaeological collections.
- 2.2 Appendix B.** See Appendix B for partial listing of archaeological reports derived from study of historic and archaeological resources located within NAWS China Lake jurisdiction.

## **3.0 REQUIREMENTS**

### **3.1 NAGPRA Compliance**

- 3.1.1 Literature Review.** St. Louis District shall perform a background literature review to identify previous archaeological research at NAWS China Lake, California. Information shall be obtained from, but not be limited to, the following sources:
- a. NAWS China Lake files containing published and unpublished archaeological reports and maps;
  - b. published and unpublished archaeological reports and documents such as books, journals, maps, theses and dissertations;
  - c. files and data contained in local, state, and federal agencies and repositories including, but not limited to, the State Historic Preservation Office of California, and offices of the California Archaeological Inventory;
  - d. consultation with qualified professional archaeologists, amateur archaeologists and local residents who are known to have knowledge of previous archaeological investigations of sites located on lands within the Station's jurisdiction.
- 3.1.2 Creation of a Master Bibliography.** Upon completion of the literature review, St. Louis District shall create a Master Bibliography containing sources of information pertinent to NAWS China Lake, including all archaeological reports from NAWS China Lake files. If available in the consulted references, the bibliography shall include the following elements:
- a. full bibliographic citation;
  - b. location of the artifact collections and associated documentation;
  - c. material classes present in the collection, including human skeletal remains, associated funerary objects and unassociated funerary objects;
  - d. names of the project director, the contractor, the sponsoring agency and relevant dates of field research, reporting and publication;
  - e. any assigned site numbers; both temporary and assigned trinomial designators.
- 3.1.3 Physical Inspection of Collections.** After all NAWS China Lake collections have been identified and located, the accessible materials in those collections at each facility or institution shall be examined, packaged for transport and removed to laboratory facilities at NAWS China Lake (as provided for in Section 5.4 of this scope) for performance

of actual physical inspection. The following guidelines shall be adhered to:

- a. the inspection shall be conducted according to the requirements of the Native American Graves Protection and Repatriation Act and any compliance guidelines issued by the Department of Interior;
- b. each collection shall be examined in detail and all human skeletal remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony shall be identified.

**3.1.4 Inventory of Human Remains and Associated Funerary Objects.** Following the physical inspection of the collections, an Inventory shall be prepared which identifies all human skeletal remains and associated funerary objects. This Inventory shall include the following elements:

- a. a list of all human skeletal remains and associated funerary objects;
- b. identification of the geographical and cultural affiliation of these materials and circumstances of their acquisition (to the extent possible, based on information sources compiled in the Master Bibliography);
- c. a list of associated funerary objects that are not clearly identifiable by affiliation but can be judged to be culturally affiliated to a particular Native American cultural group (to the extent possible, based on information sources compiled in the Master Bibliography).

**3.1.5 Summary of Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony.** A written summary shall be prepared which lists all collections containing unassociated funerary objects, sacred objects, and objects of cultural patrimony. This shall include the following elements:

- a. a description of the scope of these collections, including artifact classes and unique object artifacts. This description will be in lieu of an object-by-object inventory of collections;
- b. identification of the geographical and cultural affiliation of these collections and the circumstances of their acquisition (to the extent possible, based on information sources compiled in the Master Bibliography).

### **3.2 36 CFR Part 79 Compliance Evaluation**

**3.2.1 Collection Identification.** All known collections of archaeological artifacts and associated documentation under NAWS China Lake jurisdiction shall be identified. The Master Bibliography (outlined in Section 3.1.2 above) shall serve as the primary information source for collection identification.

**3.2.2 Inspection and Evaluation of NAWS China Lake Repository.** The repository for archaeological collections at NAWS China Lake shall be inspected and evaluated in terms of the requirements of 36 CFR Part 79. This process shall include the following elements:

- a. evaluation of structural adequacy;
- b. evaluation of security;
- c. evaluation of environmental controls;



- d. written recommendations for compliance with the requirements of 36 CFR Part 79, including alternative approaches to be taken and the level of effort required.

### 3.2.3 Inspection and Evaluation of Artifact Collections.

All known collections of curated archaeological artifacts under the jurisdiction of NAWS China Lake shall be inspected and evaluated in terms of the requirements of 36 CFR Part 79. The process shall include the following elements:

- a. inspection and evaluation of all primary containers (e.g., boxes), including condition, method of securing, and labeling;
- b. physical inspection of all secondary containers (e.g., paper and/or plastic bags), including condition method of securing and labeling;
- c. physical inspection of all artifact collections, including storage preparation and labeling;
- d. provision of a list of suppliers of archaeological curation supplies;
- e. written recommendations for the long-term curation of artifact collections, including alternative approaches to be taken and the level of effort required.

### 3.2.4 Inspection, Evaluation and Organization of Associated Documentation Collections.

All known collections of associated archaeological documentation under the jurisdiction of NAWS China Lake shall be inspected and evaluated in terms of the requirements of 36 CFR Part 79 and modern archival procedures. To the extent possible, the process shall include the following elements:

- a. inspect and evaluate the storage conditions under which documentation is maintained;
- b. organize all available documentation by project;
- c. arrange all organized documentation according to major categories (e.g., Administrative, Background, Survey, Excavation, Analysis and Report Records);
- d. subdivide the documentation collections according to primary record types (e.g., textual records, maps, photographic images and machine-readable records);
- e. place all documentation into archival quality storage enclosures and containers;
- f. provide listings of suppliers of archival storage materials;
- g. make written recommendations for the long-term preservation of the associated documentation collections, including alternative approaches to be taken and the level of effort required.

## 3.3 Documentation

St.Louis District shall prepare and provide the following documentation to NAWS China Lake during the course of this effort: Reports of Progress; a Master Bibliography; an Inventory of Human Remains and Associated Funerary Objects; a Summary of Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony; and, an Evaluation of Compliance with federal Curation Standards under authority provided in Appendix A of this Scope. Documentation shall be submitted to the Technical Monitor specified in Section 5.5 of this scope. Submissions of this documentation shall adhere to the schedule identified below in Section 4.0 of

Re-

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this Scope of Work. Documentation shall be prepared in the following fashion:

**3.3.1 Progress Reports.** Within thirty (30) calendar days following the conference meeting specified in Section 4.1 of this scope, and within every forty-five (45) day period thereafter, progress reports shall be submitted to NAWS China Lake for information and review.

**3.3.2 Master Bibliography.** St. Louis District shall deliver a Master Bibliography in fulfillment of requirements in Section 3.1.2 of this scope.

- a. St. Louis District shall deliver a list of all bibliographic references in the Master Bibliography which are not available currently at NAWS China Lake.
- b. All acquired copies of references cited in the Master Bibliography shall be deposited at NAWS China Lake.
- c. In the event that copies of these references are not available, the St. Louis District shall request that the owning entity reproduce two copies on acid-free paper for distribution to NAWS China Lake.

**3.3.3 Inventory of Human Remains and Associated Funerary Objects.** St. Louis District shall deliver a written inventory of all human skeletal remains and associated funerary objects, in fulfillment of the requirements of Section 3.1.4 of this scope.

- a. The title page of the inventory shall bear an appropriate inscription indicating the source of funds used to conduct the work.
- b. The final "camera ready" inventory original shall be printed on acid-free paper.

**3.3.4 Summary of Unassociated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony.** St. Louis District shall deliver a written summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony, in fulfillment of the requirements of Section 3.1.5 of this scope.

- a. The title page of the summary shall bear an appropriate inscription indicating the source of funds used to conduct the work.
- b. The final "camera ready" summary original shall be printed on acid-free paper.

**3.3.1 36 CFR Part 79 Compliance Evaluation.** St. Louis District shall deliver a Compliance Evaluation in fulfillment of the requirements of Section 3.2 of this scope. This Compliance Evaluation shall include, but not be limited to the following documents:

- a. Findings and recommendations resulting from the repository inspection and evaluation detailed in Section 3.2.2 of this scope.
- b. Findings and recommendations resulting from the artifact collection inspection and evaluation detailed in Section 3.2.3 of this scope.
- c. Findings and recommendations resulting from the inspection, evaluation and organization of associated documentation detailed in Section 3.2.4 of this scope.

#### **4.0 SCHEDULE**

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Performance of labor efforts, document preparation and completion of all elements in this scope of work are estimated to require one calendar year for accomplishment.

Following acceptance by St. Louis District of this scope of work, transfer of funds to carry out the work from NAWS China Lake to St. Louis District, and prior to the initiation of any work described herein, a conference meeting, on a mutually agreed upon date, shall be held at NAWS China Lake with the Principal Investigator for the purpose of determining the schedule for preparation of documentation identified above in Section 3.3 of this scope. In addition, the conference meeting shall be used for discussion and resolution of any outstanding issues or proposed revisions. A partial schedule for the preparation of documentation identified above in Section 3.3 of this scope is provided below:

Conference Meeting	
Day 30	Submit Initial Progress Report
Day 75	Submit Progress Report
Day 120	Submit Progress Report
Day 165	Submit Progress Report
Day 210	Submit Progress Report
Day 255	Submit Progress Report
Day 300	Submit Progress Report
Day 345	Submit Progress Report
Day 365	Submit Final Progress Report

## **5.0 SPECIAL CONSIDERATIONS**

**5.1 Security Requirements.** Employees of St. Louis District, subcontractors and consultants employed by St. Louis District may be refused access to project sites if they do not furnish satisfactory proof of United States citizenship. Birth certificate, Armed Forces Discharge Papers, or Naturalization Papers may be presented as proof of citizenship.

**5.2 Professional Qualification Requirements.** All St. Louis District personnel assigned to this task, subject to NAWS China Lake approval, must demonstrate qualifications and experience necessary to execute tasks in a professional and timely manner. Facilities and equipment employed by St. Louis District for performance of these efforts must be sufficient to conduct required activities in a reasonable, customary and professional manner.

Personnel performing services connected with this effort must satisfy the qualifications criteria for the Archaeological Resources Protection Act (ARPA) as codified for Department of Defense agencies at 32 CFR Part 229. The scope of work outlined herein and described elsewhere in the contract satisfies the ARPA permitting requirements defined at Section 229.5(c), by incorporating the permit procedures and requirements into the contract by reference.

**5.3 Special ARPA Permitting Requirements.** No particular permitting requirements mandated by Public Law 96-95, the Archaeological Resources Protection Act of 1979 (93 STAT 721; 16 USC 470) are foreseen as necessary for the performance of tasks specified in this scope.

**5.4 Government Furnished Materials and Services.** NAWS China Lake will provide St Louis District, in consideration of St

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Louis District's performance of the tasks specified in this scope, a sum not to exceed \$210,000.00 (two-hundred and ten thousand and zero/100 cents). In addition, NAWS China Lake will provide St. Louis District the following materials and services necessary for performance of this scope:

- a. laboratory facilities, work space, access to photocopy equipment and access to telephones;
- b. acid-free photocopy paper;
- c. archival materials, including acid-free boxes, folders and labels, inert plastic photographic enclosures, and archival ink pens
- d. Support and assistance in transferring all NAWS China Lake-owned and administered collections to the NAWS China Lake Cultural Resource laboratory facility.

5.5 Technical Monitor. The Technical Monitors (Principal and Alternate) for this scope of work are as provided below.

5.5.1 Principal Technical Monitor:

William T. Eckhardt  
Code (C08081)  
(619) 927-1528 FAX (619)939-2980  
71 Parsons St. (Bldg. 02337), Rm. #220  
Naval Air Weapons Station  
China Lake, CA 93555-6001

5.5.1 Alternate Technical Monitor:

Carolyn A. Shepherd  
Code (C8306)  
(619) 939-4053 FAX (619)939-2449  
Public Works Department (Bldg. 1344)  
Naval Air Weapons Station  
China Lake, CA 93555-6001

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## **APPENDIX A AUTHORITIES**

### **FEDERAL LAW**

Public Law 89-665, National Historic Preservation Act of 1966, as amended (80 STAT 915; 16 USC 470).

Public Law 96-95, Archaeological Resources Protection Act of 1979 (93 STAT 721; 16 USC 470aa).

Public Law 101-601, Native American Graves Protection and Repatriation Act of 1990 (104 STAT 3048; 25 USC 3001 et seq.).

### **FEDERAL REGULATION**

- 36 CFR Part 68: The Secretary of Interior's Standards for Historic Preservation Projects.
- 36 CFR Part 66: Recovery of Scientific, Prehistoric, Historic and Archaeological Data: Methods, Standards and Reporting Requirements.
- 36 CFR Part 79: Curation of Federally-Owned and Administered Archaeological Collections; Final Rule.
- 32 CFR Part 229: Archaeological Resources Protection Act of 1979; Final Uniform Regulations.

### **DIRECTIVES & INSTRUCTIONS**

OPNAV INSTRUCTION 5090.1A Chapter 20 (1990), Historic and Archaeological Resources Protection.

### **GUIDANCE**

Advisory Memorandum Regarding Implementation of the Native American Graves Protection and Repatriation Act of 1990; DRAFT dated 26 June 1991. Archaeological Assistance Division, National Park Service.

Guidelines for Consultation with Native Americans. CEV of 16 May 91, Headquarters, United States Air Force.

Interim Guidance for the Native American Graves Protection and Repatriation Act, Public Law 101-601. Department of the Army, U.S. Army Corps of Engineers.

Preliminary Interpretation of Native American Graves Protection and Repatriation Act. W3823(436) of 19 Nov 91, U.S. Department of Interior, National Park Service.

DRAFT State of California Guidelines for the Curation of Archaeological Collections. Prepared by the Curation Committee, Society for California Archaeology, December 1991. Submitted to the State Historical Resources Commission, February 7, 1992.

DRAFT Regulations for Implementing the Native American Graves Protection and Repatriation Act. W3823(436) of 11 May 92, U.S. Department of Interior, National Park Service. Attachment (Draft Three dated 21 Apr 92).

**APPENDIX B  
ARCHAEOLOGICAL REPORTS  
FOR  
NAVAL AIR WEAPONS STATION CHINA LAKE**

- Ancient Enterprises, Inc.  
1980 An Archaeological and Cultural Resources Assessment of Six Square Miles Within the Randsburg Wash Test Facility for a Proposed Project. Manuscript on file, NAWS China Lake.
- Baldwin, Charles P.  
n.d. Untitled field notes. Manuscript on file, Eastern California Museum. Independence, California.
- Barling, Tilly C.  
1975 DRAFT Environmental Impact Assessment: Bold Eagle '76. Manuscript on file, NAWS China Lake.
- Botkin, Steven G., T.A. Clewlow, M.A. Brown and C.W. Clewlow Jr.  
1987 Draft Final Report on Archaeological Investigations Along the CLJV 28.5 Mile Transmission Corridor, China Lake Naval Weapons Center, Inyo and Kern Counties, California. Manuscript on file, NAWS China Lake.
- China Lake Naval Weapons Center  
1987 Preliminary Environmental Assessment for the Darwin Wash Test Facility at the Naval Weapons Center, China Lake. Manuscript on file, NAWS China Lake.
- Cleland, James H.  
1986 Preliminary Report on Non-Collective Archaeological Inspection of Twelve Proposed Well Pads and Three Proposed Access Roads in the Coso KGRA. Manuscript on file, NAWS China Lake.
- 1987a Archaeological Evaluation Program for Twelve Well Pads and Four Access Roads in the Coso Known Geothermal Resource Area. Manuscript on file, NAWS China Lake.
- 1987b Archaeological Evaluation Program for Twelve Well Pads and Five Access Roads in Known Coso Geothermal Resource Area. Manuscript on file, NAWS China Lake.
- 1988 Problems in the Hydration Dating of Coso Obsidian at the Source. Paper presented at the Annual Meeting of the Society for California Archaeology, Redding. Manuscript on file, NAWS China Lake.
- 1989a Induced Hydration Rates for Coso Obsidian. Paper presented at the Annual Meeting of the Society for California Archaeology, Los Angeles. Manuscript on file, NAWS China Lake.
- 1989b DRAFT Sugarloaf Archaeological District Cultural Resources Management Plan. Manuscript on file, NAWS China Lake.
- Clewlow, C. William Jr.  
1985 NRHP Evaluation of Two Select Cultural Resources. Manuscript on file, NAWS China Lake.

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- 1986a Draft Technical Reptot on Non-Collection Archaeological Surface Survey at Seventeen Proposed LADWP Drill Pads and Five Proposed LADWP Access Roads in the Coso KGRA, Naval Weapons Center, China Lake, California. Manuscript on file, NAWS China Lake.
- 1986b Archaeological Test Evaluations in the KGRA and Adjacent Southern Lava Beds, China Lake Naval Weapons Center, Inyo County, California. Manuscript on file, NAWS China Lake.
- 1986c Draft Evaluation Plan and recommendations for Cultural Resources Along the Proposed CLJV 28.5 Mile Transmission Corridor in the Coso KGRA, Inyo County, California. Manuscript on file, NAWS China Lake.
- 1986d Preliminary Report on Non-Collection Archaeological Surface Survey at the Grace Geothermal Corporation's Coso A-1 Drill Pad. Manuscript on file, NAWS China Lake.
- Clewlow, C. William Jr., H. Wells and D.S. Whitley  
1980 Cultural Resources Technical Report on the Coso Geothermal Study Area. Manuscript on file, NAWS China Lake.
- Coombs, Gary B. and R.S. Greenwood  
1982 A Cultural Resources Overview and Inventory Plan for the Naval Weapons Center, China Lake. Manuscript on file, NAWS China Lake.
- Davis, E.L., G. Jefferson and C. McKinney  
1981 Man-Made Flakes with a Dated Mammoth Tooth at China Lake, California. Anthropological Journal of Canada 19(2):2-7.
- Davis, E.L., D.E. Fortsch, P.J. Mehringer Jr., C. Panlaqui and G.I. Smith  
1978 The Ancient Californians: Rancho Labrean Hunters of the Mojave Lakes Country. Emma Lou Davis, Editor. Natural History Museum of Los Angeles County, Science Series 29.
- Dorn, Ronald I. and D.S. Whitley  
1984 Cation-Ratio Dating of Petroglyphs from the Western United States. North America. Annals of the Association of American Geographers 74:308-322.
- Drews, Michael P. and R.G. Elston  
1983 An Archaeological Investigation of Drilling Locations and Power Plant Site in the Coso Geothermal Resource Area, China Lake Naval Weapons Center. Manuscript on file, NAWS China Lake.
- Elston, Robert G.  
1983a The Archaeological Reconnaissance of Four Proposed Geothermal Development Activity Areas in the Coso KGRA, Inyo County, CA. Manuscript on file, NAWS China Lake.
- 1983b Continued Archaeological Research Activities in the Area of the Devil's Kitchen and the Coso Known Geothermal Resources Area: A Proposed Technical Workplan. Manuscript on file, NAWS China Lake.
- Elston, Robert G., S.M. Seck and S.R. James  
1981 An Intensive Archaeological Investigation of Two Proposed Drilling Locations in the Coso Known Geothermal Resource Area. Manuscript on file, NAWS China Lake.

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- Elston, Robert G., D.S. Whitley, M.S. Lichty, M.P. Drews and C.D. Zeier  
1984 Class II Archaeological Survey of Selected Portions of the Naval Weapons Center, China Lake, California. Manuscript on file, NAWS China Lake.
- Elston, Robert G. and C.D. Zeier  
1984 The Sugarloaf Obsidian Quarry. Naval Weapons Center Administrative Publication 313. Manuscript on file, NAWS China Lake.
- Farmer, Malcolm F.  
1937 An Obsidian Quarry Near Coso Hot Springs. The Masterkey 11:7-9.
- Gilreath, Amy J.  
1987 Survey and Evaluation of Cultural Resources on a Portion of Federal Lease CA-11402 Lands (Parcel 2) Within Coso KGRA, Inyo County, CA. Manuscript on file, NAWS China Lake.
- 1988 Survey and Evaluation of Cultural Resources on a Portion of the Navy/CLJV Contract (Navy 2) Lands Within the Coso KGRA, Inyo County, CA. Manuscript on file, NAWS China Lake.
- Gilreath, Amy J. and William R. Hildebrandt  
1988 Survey and Evaluation of Cultural Resources on a Portion of the Navy/CLJV Contract (Navy 1) Lands Within the Coso KGRA, Inyo County, CA. Manuscript on file, NAWS China Lake.
- Grant, Campbell, J.W. Baird and J.K. Pringle  
1968 Rock Drawings of the Coso Range, Inyo County, California. Maturango Museum Publication 4. China Lake, California.
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- 1974 The Baird Site. In, Excavation of two sites in the Coso Mountains of Inyo County, California. Maturango Museum Monograph 1:63-86. Ridgecrest.
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 1983 The Hydration Rate for Coso (Sugarloaf) Obsidian at Archaeological Sites in the China Lake area of California. Mohlab Technical Report No.23. PA. California Appendix A. In, An Analysis of Obsidian Hydration Processes at the Sugarloaf Obsidian Quarry, Inyo County, California. Manuscript on file, NAWS China Lake.
- Panlaqui, Carol  
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 1957 The Archaeology of Seep Spring. San Bernardino County Museum Association Scientific Series 2. Redlands, California.
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- 1985 Archaeological Survey of Proposed Drill Pad Location 63-18, Coso KGRA, NWC China Lake, Inyo County, California. Manuscript on file, NAWs China Lake.
- 1986a Archaeological Survey of the Proposed CLJV 28.5 Mile Transmission Line Corridor in the Coso KGRA, Inyo County, California. Manuscript on file, NAWs China Lake.
- 1986b Archaeological Investigations of Well Pads C and D Within Federal Lease CA-11402, Coso KGRA, Inyo County, California. Manuscript on file, NAWs China Lake.
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  - 1979 Technical Appendix for the Environmental Assessment for Naval Weapons Center Withdrawal of Mojave B Ranges. Manuscript on file, NAWs China Lake.
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  - 1980 Final Technical Reprot on the Impacts of Feral Burros on the Cultural Resources of the Naval Weapons Center, China Lake, California. Manuscript on file, NAWs China Lake.
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- Whitley, David S. and Joseph M. Simon
  - 1982 Archaeological Investigations of Four Proposed Drill Pad Sites, Coso KGRA, Inyo County, California. Manuscript on file, NAWs China Lake.
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  - 1984 An Analysis of Obsidian Hydration Processes at the Sugarloaf Obsidian Quarry, Inyo County, California. Manuscript on file, NAWs China Lake.

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## **APPENDIX TEN: NCAI RESOLUTION REGARDING AIRCRAFT FLY-OVERS**

This document is the National Congress of American Indians resolution regarding tribal regulatory authority over airspace on native lands. It is of concern to this report because this regulatory authority could be extended to include sites found on DOD facilities.

# National Congress of American Indians

Est. 1944

## RESOLUTION NO. DC-92-42

### EXECUTIVE COMMITTEE

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*Chippewa*

**First Vice President**  
Joseph T. Goombi  
*Kiowa*

**Recording Secretary**  
Rachel Joseph  
*Shoshone-Paluto-Mono*

**Treasurer**  
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*Jamestown S'Klallam*

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Terry Fiddler  
*Cheyenne River Sioux*

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*Ysleta Del Sur Pueblo*

**Anadarko Area**  
Elmer Manatowe  
*Sec & Fox*

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*Blackfeet*

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*Tlingit-Haida*

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*Cherokee*

**Northeastern Area**  
J.C. Seneca  
*Seneca*

**Phoenix Area**  
Mary Ann Antone  
*Tohono O'Odham*

**Portland Area**  
Bruce Wynne  
*Spokane*

**Sacramento Area**  
Susan Masten  
*Yurok*

**Southeastern Area**  
A. Bruce Jones  
*Lumbee*

**EXECUTIVE DIRECTOR**  
Michael J. Anderson  
*Creek*

### A Resolution for Tribal Regulatory Authority over Airspace

WHEREAS, the American Indian and Alaska Tribal Governments and people have gathered in Crystal City, Virginia, of the Washington, D.C. area, for the 49th Annual Convention of the National Congress of American Indians (NCAI) in order to promote the common interests and welfare of American Indian and Alaska Native peoples; and

WHEREAS, NCAI is the oldest and largest intertribal organization nationwide representative of and advocate for national, regional, and local tribal concerns; and,

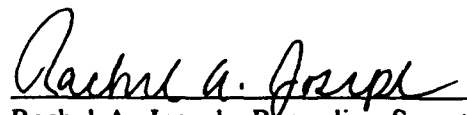
WHEREAS, at the 49th Annual Convention of NCAI Taos Pueblo Tribal Government submitted a Resolution that the NCAI work through Congress and the administrative branches of the United States Government to establish American Indian sovereignty over airspace as a function of natural resource protection; and

WHEREAS, said Resolution was adopted by the NCAI and received overwhelming support from participating Tribal Nations.

NOW THEREFORE BE IT RESOLVED, that the NCAI serve as Coordinator of a nationally based coalition of Tribal Governments adversely affected by flight intrusions to pursue legislative and administrative remedies, and work for the establishment of Native American sovereignty over airspace

BE IT FURTHER RESOLVED, that the Coalition consider Tribal regulatory authority over Native American lands and natural resources as a method of establishing airspace protection.

### CERTIFICATION



Rachel A. Joseph, Recording Secretary

Adopted by the Executive Council during the 49th Annual Convention, October 11-16, 1992, Crystal City, Virginia.

**REPORT DOCUMENTATION PAGE**Form Approved  
OMB No. 0704-0188

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188), Washington, DC 20503.

<b>1. AGENCY USE ONLY (Leave blank)</b>		<b>2. REPORT DATE</b> September 1993	<b>3. REPORT TYPE AND DATES COVERED</b> Final report	
<b>4. TITLE AND SUBTITLE</b> American Indian Access to Department of Defense Facilities: Source Documents and Bibliography			<b>5. FUNDING NUMBERS</b>	
<b>6. AUTHOR(S)</b> Richard W. Stoffle, Diane Austin, Brian Fulfrost				
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b> Bureau of Applied Research in Anthropology University of Arizona Tucson, AZ 85721			<b>8. PERFORMING ORGANIZATION REPORT NUMBER</b>	
<b>9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b> U. S. Department of Defense, Office of the Deputy Assistant Secretary of Defense for the Environment, Washington, DC 22202; U.S. Army Engineer Waterways Experiment Station, Environmental Laboratory, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199			<b>10. SPONSORING/MONITORING AGENCY REPORT NUMBER</b> Contract Report EL-93-4	
<b>11. SUPPLEMENTARY NOTES</b> Available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.				
<b>12a. DISTRIBUTION/AVAILABILITY STATEMENT</b> Approved for public release; distribution is unlimited.			<b>12b. DISTRIBUTION CODE</b>	
<b>13. ABSTRACT (Maximum 200 words)</b> This report provides a bibliography of published material related to issues of Native American access to Department of Defense (DoD) facilities. In addition, the report documents the results of telephone contacts with DoD command centers and individual Air Force, Army, Navy, and Marine Corps facilities regarding the presence of sites located on land within DoD jurisdiction that are of known or probable interest to Native American groups. Concerns were identified by contacts regarding (a) historical/archaeological, (b) burial, (c) botanical, (d) hunting, and (e) sacred sites. The report summarizes information provided by the telephone contacts about the interactions between DoD personnel and Native Americans regarding these sites. At facilities where there are known sites, the relations between DoD personnel and Native American groups range from no interaction at all to formal agreements specific to the groups with interests at the facility. An extensive set of appendices at the end of the report provides examples of policies regarding interactions between U.S. military installations and Native American groups and of formal agreements governing these interactions.				
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